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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91222331
Party	Defendant Castel Engineering NV
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Date	07/21/2015
Attachments	Ans20150721KOBCastelSPEEDICHANNEL.pdf(235837 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DIVERSITECH CORPORATION)	
)	
Opposer,)	Opposition No.: 91/222,331
)	
v.)	Ser. No.: 79152407
)	
CASTEL ENGINEERING NV)	
)	
Applicant)	
)	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant, CASTEL ENGINEERING NV, by its attorneys, hereby responds to the allegations set forth in the Notice of Opposition filed by Opposer, Diversitech Corporation, as follows:

To the extent that Opposer makes allegations in the unnumbered paragraphs, Applicant has insufficient knowledge or information as to the truth of those allegations, and therefore denies said allegations

1. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition, and therefore, denies said allegations.
2. Applicant denies the allegations set forth in Paragraph 2 of the Notice of Opposition, inasmuch as the correct postal code is B-7700.
3. Admitted

4. Admitted
5. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 5 of the Notice of Opposition, and therefore, denies said allegations.
6. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 6 of the Notice of Opposition, and therefore, denies said allegations.
7. Applicant denies the allegations set forth in Paragraph 7 of the Notice of Opposition, inasmuch as the Supplier Agreement did not specify unbranded line set covers and in fact the products were branded.
8. Applicant denies the allegations set forth in Paragraph 8 of the Notice of Opposition, Opposer and Applicant agreed to use of the SPEEDICHANNEL mark in connection with Applicant's goods in the U.S.
9. Admitted
10. Admitted
11. Applicant denies the allegations set forth in Paragraph 11 of the Notice of Opposition, inasmuch as the Supplier Agreement does contain provisions for Applicant to control the quality of its SPEEDICHANNEL products and inasmuch as Applicant does not need a supplier agreement to give it the right to control the quality of its own products.
12. Applicant denies the allegations set forth in Paragraph 12 of the Notice of Opposition.
13. Applicant denies the allegations set forth in Paragraph 13 of the Notice of Opposition.
14. Applicant denies the allegations set forth in Paragraph 14 of the Notice of Opposition, inasmuch as ULTIMATE DUCT is not Applicant's mark and Applicant sells its line set covers in Europe under other marks in addition to AIRCO.

15. Applicant denies the allegations set forth in Paragraph 15 the Notice of Opposition. As Applicant's distributor, Opposer's use of the SPEEDICHANNEL mark inured to the benefit of Applicant.
16. Applicant denies the allegations set forth in Paragraph 16 of the Notice of Opposition, inasmuch as Applicant's SPEEDICHANNEL mark appeared in marketing, advertising and sales materials for SPEEDICHANNEL products.
17. Applicant denies the allegations set forth in Paragraph 17 of the Notice of Opposition, inasmuch as Applicant's SPEEDICHANNEL mark appears on SPEEDICHANNEL products sold in the United States.
18. Applicant denies the allegations set forth in Paragraph 18 of the Notice of Opposition. Applicant was responsible for quality control of SPEEDICHANNEL product.
- 18 (2). Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 18 (2) of the Notice of Opposition, and therefore, denies said allegations. Opposer should have returned any defective product to Applicant, per section 9 of the Supplier Agreement, and Applicant was fully responsible for any costs associated with defective product.
19. Admitted. This is a result of the quality control measures Applicant employs.
20. Applicant denies the allegations set forth in Paragraph 20 of the Notice of Opposition.
21. Applicant denies the allegations set forth in Paragraph 21 of the Notice of Opposition.
22. Admitted
23. Applicant denies the allegations set forth in Paragraph 23 of the Notice of Opposition.
24. Applicant has insufficient knowledge or information as to the truth of the allegations set

forth in Paragraph 24 of the Notice of Opposition, and therefore, denies said allegations.

25. Applicant has insufficient knowledge or information as to the truth of the allegations set

forth in Paragraph 25 of the Notice of Opposition, and therefore, denies said allegations.

26. Applicant denies the allegations set forth in Paragraph 26 of the Notice of Opposition,

inasmuch as it is Opposer's use and registration of SPEEDICHANNEL that is likely to cause confusion.

27. Applicant denies the allegations set forth in Paragraph 27 of the Notice of Opposition,

inasmuch as Opposer has no rights to be injured and it is Opposer's use and registration of SPEEDICHANNEL that would be injurious to the Applicant.

28. Applicant has insufficient knowledge or information as to the truth of the allegations set

forth in Paragraph 28 of the Notice of Opposition, and therefore, denies said allegations.

AFFIRMATIVE DEFENSES

Applicant sets forth the following affirmative and other defenses. In asserting these defenses, Applicant is not assuming the burden to establish any fact or proposition where that burden is properly imposed on Opposer. Applicant reserves the right to assert additional affirmative and other defenses at the appropriate time in these proceedings.

1. As a first and separate affirmative defense, Opposer's claim is barred from recovery by the doctrine of laches.
2. As a second and separate affirmative defense, Opposer's claim is barred from recovery by reason of its own unclean hands.
3. As a third and separate affirmative defense, Opposer's claim is barred from recovery by the doctrine of estoppel
4. As a fourth and separate affirmative defense, Opposer's claim is barred from recovery by the doctrine of waiver.
5. As a fifth and separate affirmative defense, Opposer's claim is barred from recovery by the doctrine of acquiescence.

WHEREFORE, Applicant respectfully requests that the present Notice of Opposition be dismissed with prejudice.

RESPECTFULLY SUBMITTED,

Symbus Law Group, LLC

Dated: July 21, 2015

By: /s/ Clifford D. Hyra
Clifford D. Hyra, Esq.

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Attorneys for Applicant
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and complete copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION has been served on counsel for Opposer, by depositing a copy thereof in the United States Mail on July 21, 2015, First Class Mail, postage prepaid in an envelope addressed as follows:

Michael D. Hobbs, Jr.
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Atlanta, Georgia 30308-2216

/s/ Kim Flanagan