

ESTTA Tracking number: **ESTTA713601**

Filing date: **12/09/2015**

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

Proceeding	91224524
Party	Plaintiff Stillwater Designs and Audio, Inc.
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Attachments	MOT.pdf(57196 bytes)

**United States Patent and Trademark Office
Trademark Trial and Appeal Board**

Stillwater Designs and
Audio, Inc.,

Opposer,

v.

SingTech, Inc.,

Applicant.

Opposition No. 91224524

Opposer’s Motion to Strike Affirmative Defenses

The Opposer moves to strike the third and fifth affirmative defenses asserted in the Applicant’s answer, filed December 1, 2015.

Because a ruling on the motion will impact the scope of discovery, we ask that the proceeding be suspended pending the Board’s ruling. After the Board decides the motion, the deadlines for the initial discovery conference, discovery and trial should be reset.

Under Rule 12(f), Federal Rules of Civil Procedure the Board may order that any insufficient or impermissible defense be stricken from a pleading . See also 37 C.F.R. § 2.116(a) and TBMP § 506.

The Applicant’s third affirmative defense asserts that “Opposer is estopped from asserting any exclusive rights to a trademark for the word KICK used with other terms” and that its claims are “barred under the

doctrines of waiver, acquiescence and laches.” No supporting facts have been pleaded.

With regard to waiver, acquiescence and laches, the Federal Circuit has held that the affirmative defense of laches and/or undue delay in bringing a proceeding is inapplicable in opposition proceedings. See *National Cable Television Ass’n Inc. v. American Cinema Editors Inc.*, 19 USPQ2d 1424, 1432 (Fed. Cir. 1991). With regard to estoppel, there has been no allegation that the Opposer somehow induced the Applicant to select the mark under opposition. See *Castro v. Cartwright*, Opp. No. 91188477, order dated September 5, 2009 (striking estoppel defense). The third defense should accordingly be stricken as insufficient.

The Applicant’s fifth affirmative defense offers a boilerplate claim of unclean hands: “Opposer has engaged in acts constituting unclean hands in filing its application and in the conduct of this opposition proceeding.” This defense makes a serious charge of misconduct, yet is wholly lacking in factual specificity. It should accordingly be stricken as insufficient. See *Midwest Plastic Fabricators Inc. v. Underwriters Laboratories Inc.*, 5 USPQ2d 1067, 1069 (TTAB 1987).

Respectfully submitted,



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Certificate of Service

I certify that a true and complete copy of the foregoing has been served on opposing counsel on December 9, 2015, by first class mail, postage prepaid, addressed to:

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