ESTTA Tracking number: **ESTTA392580**
Filing date: **02/09/2011**

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

Proceeding	92052671
Party	Defendant Protech Chemicals Ltd./Protech Chimie LTee
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Submission	Answer
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Date	02/09/2011
Attachments	AR-M550N_20110209_165821.pdf (5 pages)(119854 bytes)

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

HENTZEN COATINGS, INC.,	)	
Petitioner,	)	Cancellation No: 92052671
v.	)	Registration No. 3,568,968
PROTECH CHEMICALS LTD./ PROTECH CHIMIE LTEE,	)	
Registrant.	)	

ANSWER TO PETITION FOR CANCELLATION

In reply to the Petition for Cancellation filed by Petitioner HENTZEN COATINGS, INC., Registrant PROTECH CHEMICALS LTD./PROTECH CHIMIE LTEE. states the following:

1. Registrant is without sufficient knowledge as to the truth of allegations contained in paragraph 1 of the Petition for Cancellation, and hereby denies same.

2. Registrant is without sufficient knowledge as to the truth of allegations contained in paragraph 2 of the Petition for Cancellation, and hereby denies same.

3. Registrant is without sufficient knowledge as to the truth of allegations contained in paragraph 3 of the Petition for Cancellation, and hereby denies same.

4. Registrant admits the allegations contained in paragraph 4 of the Petition for Cancellation.

5. Registrant denies the allegations contained in paragraph 5 of the Petition for Cancellation.

6. Registrant denies the allegations contained in paragraph 6 of the Petition for Cancellation.

7. Registrant denies the allegations contained in paragraph 7 of the Petition for Cancellation.

8. Registrant denies the allegations contained in paragraph 8 of the Petition for Cancellation.

9. Registrant denies the allegations contained in paragraph 9 of the Petition for Cancellation.

10. Registrant denies the allegations contained in paragraph 10 of the Petition for Cancellation.

11. Registrant denies the allegations contained in paragraph 11 of the Petition for Cancellation.

12. Registrant denies the allegations contained in paragraph 12 of the Petition for Cancellation.

AFFIRMATIVE DEFENSES

Registrant also makes the following affirmative defenses in response to Petitioner's Petition for Cancellation:

13. Petitioner is barred from raising a challenge based on laches and estoppel, as Petitioner has known about Registrant's mark STERILCOAT AM for many years, and has failed to raise any challenge. Registrant has relied on that lack of challenge by Petitioner and continued to expand its business.

14. On information and belief, Petitioner abandoned its mark sometime after the 1934 date of first use alleged in its application, and did not resume use until a date subsequent to the "first use date" upon which Registrant is entitled to rely.

15. On information and belief, Petitioner has committed fraud on the Patent and Trademark Office when filing its application by falsely alleging use of its mark since 1934 on goods for which use was not being made at the time the application was filed, such mis-statements being made with the intent to deceive the PTO.

16. Pursuant to 15 U.S.C. 1068 (Section 18 of the Lanham Act) and 37 C.F.R. §2.133(b), Petitioner should be required to restrict its identification of goods in its application to reflect the exact products on which its mark is used.

17. Pursuant to 15 U.S.C. 1068 (Section 18 of the Lanham Act), Registrant should be allowed to restrict the identification of goods in its registration to reflect the precise nature of its goods, an act that would further eliminate any likelihood of confusion.

WHEREFORE, Registrant respectfully requests that the Cancellation be dismissed and that Registration No. 3,568,968 not be cancelled.

PROTECH CHEMICALS LTD./
PROTECH CHIMIE LTEE.,

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Attorneys for Registrant Protech Chemicals Ltd./
Protech Chimie Ltee.

Date: February 9, 2011

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing ANSWER TO PETITION FOR CANCELLATION AND AFFIRMATIVE DEFENSES has this 9th day of February 2011, been sent by prepaid First Class Mail to the following attorney for Petitioner:

C. Thomas Sylke
Sylke Law Offices, LLC
756 North Milwaukee Street, Suite 210
Milwaukee, Wisconsin 53202

Stewart J. Bellus

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