

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

Opposition No. 124,302
Appln. Serial No. 76/026,164
Mark: S.S. WHITE



05-28-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

* * * * *

* S.S. WHITE BURS, INC., *

* Plaintiff/Opposer *

* -against- *

* S.S. WHITE TECHNOLOGIES INC., *

* Defendant/Applicant *

* * * * *

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COMM-FEDERAL BUREAU OF INVESTIGATION

APPLICANT'S CROSS-MOTION FOR SUMMARY JUDGMENT

May 23, 2003

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the TTAB - Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on May 23, 2003.

Arthur L. Lessler

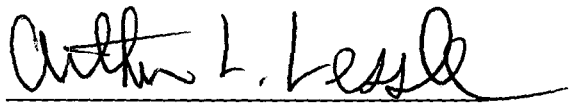
Defendant/Applicant S.S. White Technologies Inc., in accordance with §2.127(a) of the Trademark Rules of Practice and Rule 56 of the Federal Rules of Civil Procedure, moves for summary judgment on Opposer's Section 2(d) opposition claims against application Serial Number 76/026,164 filed by Applicant. As good cause for the requested relief, Applicant believes that there are no genuine issues of material fact which preclude judgment as a matter of law on Opposer's opposition claims.

A memorandum of law and the Declaration of Arthur L. Lessler, filed concurrently herewith, support this motion. Applicant also concurrently files its Motion to Use Testimony from Another Proceeding. This motion, filed pursuant to 37 C.F.R. §2-122(f), pertains to certain exhibits attached to the Declaration of Arthur L. Lessler.

Respectfully submitted,

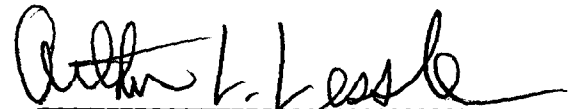
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Dated: May 23, 2003

By 
Arthur L. Lessler

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2003, I served the foregoing Applicant's Cross-Motion For Summary Judgment and the accompanying (i) Applicant's Memorandum of Law in Opposition to Opposer's Motion for Summary Judgment and In Support of Applicant's Cross-Motion for Summary Judgment, (ii) Applicant's Cross-Motion to Use Testimony and Exhibits From Another Proceeding, (iii) Declaration of Arthur L. Lessler, and (iv) Exhibits identified in said Declaration, upon counsel for Plaintiff/Opposer, addressed to the persons listed below.



Arthur L. Lessler

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May 23, 2003



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Re: S.S. White Burs, Inc. v. S.S. White Technologies Inc.
Opposition No. 124,302 Appln. Serial No. 76/026,164

Gentlemen:

The following documents are enclosed:

- a. Applicant's Cross-Motion For Summary Judgment (Original + 2 copies).
- b. Applicant's Memorandum of Law in Opposition to Opposer's Motion for Summary Judgment and In Support of Applicant's Cross-Motion for Summary Judgment (Original + 2 copies).
- c. Applicant's Cross-Motion to Use Testimony and Exhibits From Another Proceeding (Original + 2 copies).
- d. Declaration of Arthur L. Lessler as to evidence (Original + 2 copies).
- e. Evidence identified in said Declaration, comprising Volume 1 containing Exhibits A to E, and Volume 2 containing Exhibits F to M (Original only).

A brief on a motion is limited by 37 C.F.R. §2.127(a) to 25 pages in length. A trial brief is limited by 37 C.F.R. §2.128(b) to 55 pages in length. However, this summary judgment motion and cross-motion involve evidence which was fully developed in the related District Court action, so that

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Letter to United States Patent and Trademark Office/Trademark Trial and Appeal Board

Re: S.S. White Burs, Inc. v. S.S. White Technologies Inc.

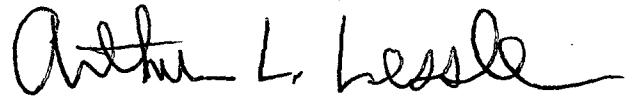
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Applicant's brief is in effect a trial brief, since to properly respond to Opposer's motion and to properly support its cross-motion, Applicant is required to present the same material in essentially the same manner as it would present in a trial brief. For these reasons Applicant requests that the Board permit it to file the enclosed brief which is 53 pages in length.

Respectfully submitted,

LESSLER & LESSLER
Attorneys for Applicant



Arthur L. Lessler

ALL:ca
Enclosures

cc: Charles R. Mandly, Jr., Esq.
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