

TTAB

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

In the matter of Trademark Application Serial No.: 76/318,548
Filed: September 26, 2001
For the mark: WESTERN ELECTRIC
Published in the Official Gazette on: December 3, 2002

Lucent Technologies Inc. Opposition No. 91155990
Opposer

v.

Western Electric Pacific Limited
Applicant



05-27-2003

U.S. Patent & TMO/ TM Mail Rcpt Dt. #22

Box TTAB - NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

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SEP 27 2003

ANSWER

NOW BEFORE THE BOARD, through undersigned counsel, comes applicant Western Electric Pacific Limited ("WEPL"), who herein answers the Notice of Opposition filed by Lucent Technologies Inc. ("Lucent") in this matter. All allegations of the Notice of Opposition are respectfully denied unless hereinafter specifically admitted, and WEPL specifically responds to each particular allegation of the Notice of Opposition as follows:

1.

The allegations of Paragraph 1 of the Notice of Opposition are denied for lack of sufficient information upon which to justify a reasonable belief therein. The cited registrations should be matters of public record available within the United States Patent and Trademark Office, and the

certificates of registration and trademark records would be the best evidence of the facts pled in Paragraph 1.

2.

The allegations of Paragraph 2 of the Notice of Opposition are denied for lack of sufficient information upon which to justify a reasonable belief therein.

3.

In response to Paragraph 3 of the Notice of Opposition, it is admitted only that applicant WEPL has filed an intent-to-use application, seeking to register the mark "WESTERN ELECTRIC" as a trademark for "electric motors" in International Class 7, and that the mark has been published. The remaining allegations of Paragraph 3 of the Notice of Opposition are denied for lack of sufficient information upon which to justify a reasonable belief therein.

4.

The allegations of Paragraph 4 of the Notice of Opposition are denied.

5.

The allegations of Paragraph 5 of the Notice of Opposition are denied.

Defenses

Defense No. 1

Lucent's Notice of Opposition was untimely, since Lucent failed to maintain the continuity of its extensions of time within which to file an opposition, but rather has attempted to rely upon the extension request of another. Since Lucent's Notice of Opposition was filed outside of the prescribed time period, this opposition proceeding is procedurally defective and improper and should be summarily dismissed.

Defense No. 2

There is no likelihood of confusion with respect to WEPL's mark and goods as set forth in the application. A consideration of likelihood of confusion must include an evaluation of all of the relevant factors. Applicant's goods are sufficiently distinct from those set forth in Lucent's registrations so that there is no likely consumer confusion. This is especially true considering other factors, such as the sophisticated nature of the consumers at issue. A full analysis of WEPL's mark, as set forth in the pending application, compared to Lucent's registered marks, demonstrates that it is not likely to cause confusion, or cause mistake, or deceive.

Defense No. 3

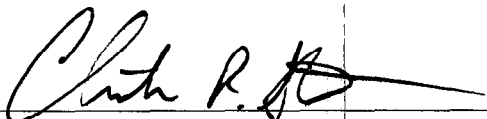
Alternatively, applicant WEPL's current use of its mark outside of the United States is actually limited to only "large-scale industrial electric motors," a subset of the description of goods within the pending application. There is no likelihood of confusion with respect to applicant's actual goods, so even if the Board ultimately finds that opposer is entitled to judgment with respect to applicant's goods as broadly identified in the pending application, applicant WEPL would be entitled to a registration of its mark with a restricted identification reflecting the actual nature of its goods.

WHEREFORE, Applicant Western Electric Pacific Limited prays that this answer with defenses be deemed good and sufficient and that, after due consideration, judgment be entered in favor of applicant Western Electric Pacific Limited, dismissing this opposition proceeding with

prejudice and allowing application no. 76/318,548 to move to issuance and registration.

Respectfully submitted,

PHELPS DUNBAR LLP

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ATTORNEYS FOR WESTERN ELECTRIC
PACIFIC LIMITED


CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 CFR §1.10

Date: May 27, 2003

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I certify that the enclosed ANSWER was deposited on the date above with the United States Postal Service with sufficient postage as Express Mail, Next Day Service, Post Office Addressee, in an envelope addressed to:

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Clinton Stuart

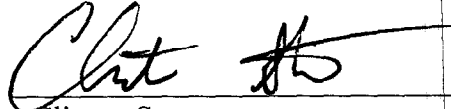
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Answer has been served on:

Matthew Hodulik
Lucent Technologies Inc.
Room 2F-181
600 Mountain Avenue
Murray Hill, NJ 07974

by express mail post office addressee service, express mail number ET170800337US,

United States Mail, properly addressed and postage prepaid, this 27th day of May, 2003.



Clinton Stuart