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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: Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, 2900 Crystal Drive, Arlington, VA 22202-3514 on

July 1, 2004

TOWNSEND AND TOWNSEND AND CREW LLP

By: Blenda Richey

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

Trademark Serial No. 78/251,009
Mark: KYTEX

KLEERDEX COMPANY, LLC,

Opposer,

v.

JOHNS MANVILLE,

Applicant.

Opposition No. 91160233

ANSWER TO NOTICE OF OPPOSITION

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
2900 Crystal Drive
Arlington, VA 22202-3514



07-06-2004

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

Sir:

Applicant Johns Manville, by and through its attorneys, hereby answers the Notice of Opposition of Kleerdex Company, LLC ("Kleerdex") as follows:

1. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 1, and on that basis denies those allegations.
2. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 2, and on that basis denies those allegations.

3. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 3, and on that basis denies those allegations.

4. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 4, and on that basis denies those allegations.

5. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 5, and on that basis denies those allegations.

6. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 6, and on that basis denies those allegations.

7. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 7, and on that basis denies those allegations.

8. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 8, and on that basis denies those allegations.

9. Johns Manville admits that it is a Delaware corporation with a business mailing address of P.O. Box 5108, 717 17th Street, Denver, Colorado 80202. Except as expressly admitted, Johns Manville denies all other allegations in paragraph 9.

10. Johns Manville admits that it has a *bona fide* intention to sell glass fiber roving in the United States under the KYTEX mark. Except as expressly admitted, Johns Manville denies the allegations in paragraph 10.

11. Johns Manville admits that it manufactures glass fiber roving. Johns Manville admits that it intends to sell glass fiber roving under the KYTEX mark for use in the manufacture of goods. Except as expressly admitted, Johns Manville denies the remaining allegations of paragraph 11.

12. Johns Manville admits that it is the owner of U.S. Trademark Application Serial No. 78/251,009, filed May 16, 2003, for the mark KYTEX for use in connection with glass fiber roving used primarily in automotive applications in International Class 17. Johns Manville admits that U.S. Trademark Application Serial No. 78/251,009 is based on a *bona fide* intention to use the mark in commerce in the United States pursuant to § 1(b) of the Lanham Act. Johns Manville admits that it has not yet used the KYTEX mark in commerce. Except as expressly admitted, Johns Manville denies the remaining allegations of paragraph 12.

13. Johns Manville admits that glass fiber roving used primarily in automotive applications are the goods in connection with which it intends to use the KYTEX mark. Johns Manville admits that Kleerdex's Exhibit A to the Notice of Opposition appears to be a Johns Manville specification sheet concerning fiber glass rovings for thermoplastic applications. Johns Manville has no knowledge of Kleerdex's trade channels or customers and on that basis, denies the allegations of paragraph 13. Except as expressly admitted, Johns Manville denies the remaining allegations of paragraph 13.

14. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 14, and on that basis denies those allegations.

15. Johns Manville is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 15, and on that basis denies those allegations.

16. Johns Manville denies the allegations of paragraph 16.

17. Johns Manville denies the allegations of paragraph 17.

18. Johns Manville denies the allegations of paragraph 18.

19. Johns Manville denies the allegations of paragraph 19.

20. Johns Manville denies the allegations of paragraph 20.

AFFIRMATIVE DEFENSES

21. The Notice of Opposition fails to state a claim upon which relief can be granted.

22. The Notice of Opposition is barred by the doctrines of estoppel, laches, waiver, unclean hands, and/or other equitable considerations.

WHEREFORE, Applicant respectfully requests that the Board:

- A. Dismiss Opposition No. 91160233;
- B. Allow U.S. Trademark Application Serial No. 78/251,009 for the mark "KYTEX" to be passed to registration; and
- C. Grant Johns Manville such other relief as is deemed proper and just.

Dated: July 1, 2004.

Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP



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Attorneys for Applicant Johns Manville

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of July, 2004 a true and correct copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** was served by United States first class mail, postage prepaid and addressed to:

Jacques L. Etkowicz
Ratner Prestia
P.O. Box 980
Valley Forge, PA 19482

By: Blenda Richey

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