

DOCKET NO: 47127-0003

OPPOSITION

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

YAMAHA MOTOR CORPORATION, U.S.A.,

Opposition No. 91170578

Opposer,

v.

Serial No. 76/625,787

PRO ALUMINUM, INC.,

Applicant.

**ANSWER TO NOTICE OF OPPOSITION**

Commissioner for Trademarks  
PO Box 1451  
Alexandria, VA 22313-1451

Pro Aluminum, Inc. ("Applicant"), by and through its attorneys, hereby answers the opposition filed by Yamaha Motor Corporation, U.S.A. ("Opposer") as follows:

With respect to Opposer's description of Applicant's application, Applicant asserts the application itself is the best evidence of what it contains. Opposer's description is irrelevant and Applicant objects to it.

1. In response to the allegations of Paragraph 1 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations set forth therein and, therefore, denies them all.

2. In response to the allegations of paragraph 2 of the opposition, Applicant specifically denies the allegation that the letter "Y" refers to Yamaha and that vehicles and parts



designated with the mark which features the letter "Y" are known to originate from Yamaha. With respect to the remaining allegations, Applicant lacks sufficient information to form a belief as to the truth of the allegations and, therefore, denies them all.

3. With respect to the allegations of paragraph 3 of the opposition, to the extent that the allegations are legal conclusions, Applicant need not admit or deny them; for all other allegations of paragraph 3, Applicant lacks sufficient information to form a belief as to the truth of the allegations and, therefore, denies them all.

4. With respect to the allegations of paragraph 4 of the opposition, to the extent that the allegations are legal conclusions, Applicant need not admit or deny them; for all other allegations of paragraph 4, Applicant lacks sufficient information to form a belief as to the truth of the allegations and, therefore, denies them all.

5. With respect to the allegations of paragraph 5 of the opposition, to the extent that the allegations are legal conclusions, Applicant need not admit or deny them; for all other allegations of paragraph 5, Applicant lacks sufficient information to form a belief as to the truth of the allegations and, therefore, denies them all.

6. With respect to the allegations of paragraph 6 of the opposition, to the extent that the allegations are legal conclusions, Applicant need not admit or deny them; for all other allegations of paragraph 6, Applicant lacks sufficient information to form a belief as to the truth of the allegations and, therefore, denies them all.

7. With respect to the allegations of paragraph 7 of the opposition, to the extent that the allegations are legal conclusions, Applicant need not admit or deny them; for all other allegations of paragraph 7, Applicant lacks sufficient information to form a belief as to the truth of the allegations and, therefore, denies them all.

8. With respect to the allegations of paragraph 3 of the opposition, to the extent that the allegations are legal conclusions, Applicant need not admit or deny them; for all other allegations of paragraph 3, Applicant lacks sufficient information to form a belief as to the truth of the allegations and, therefore, denies them all.

9. With respect to the allegations of paragraph 9 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 9 and, therefore, denies them all.

10. With respect to the allegations of paragraph 10 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 10 and, therefore, denies them all.

11. With respect to the allegations of paragraph 11 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 11 and, therefore, denies them all.

12. With respect to the allegations of paragraph 12 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 12 and, therefore, denies them all.

13. With respect to the allegations of paragraph 13 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 13 and, therefore, denies them all.

14. With respect to the allegations of paragraph 14 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 14 and, therefore, denies them all.

15. With respect to the allegations of paragraph 15 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 15 and, therefore, denies them all.

16. With respect to the allegations of paragraph 16 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 16 and, therefore, denies them all.

17. With respect to the allegations of paragraph 17 of the opposition, to the extent that the allegations are legal conclusions, Applicant need not admit or deny them; for all other allegations of paragraph 17, Applicant lacks sufficient information to form a belief as to the truth of the allegations and, therefore, denies them all.

18. With respect to the allegations of paragraph 18 of the opposition, Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 18 and, therefore, denies them all.

19. With respect to the allegations of paragraph 19 of the opposition, to the extent that the allegations are legal conclusions, Applicant need not admit or deny them; for all other allegations of paragraph 19, Applicant denies them all.

20. With respect to the allegations of paragraph 20 of the opposition, Applicant denies the allegations of paragraph 20.

21. With respect to the allegations of paragraph 21, Applicant denies the allegations of paragraph 21.

#### **AFFIRMATIVE DEFENSES**

1. Opposer has failed to state a claim upon which relief may be granted.
2. There is no likelihood of confusion between Applicant's mark used in connection

with Applicant's goods and Opposer's marks used in connection with Opposer's goods.

**PRAYER FOR RELIEF**

WHEREFORE, Applicant requests a judgment dismissing opposer's opposition and this proceeding in its entirety.

Dated this 25<sup>th</sup> day of May, 2006.

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 Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1450 on May 25, 2006.

By: Linda Bakke

Linda Bakke

Signature

Dated: May 25, 2006

Respectfully submitted,

SNELL & WILMER LLP

By: Albin H. Gess

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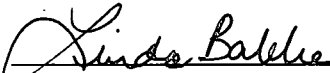
Attorneys for Applicant  
PRO ALUMINUM, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer to Notice of Opposition was deposited in the United States mail, first-class postage prepaid to, Opposer's attorney, on the 25<sup>th</sup> day of May, 2006, addressed as follows:

Catherine J. Holland  
Knobbe, Martens, Olson & Bear LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614

Dated: May 25, 2006

By:   
Linda Bakke