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

Proceeding	91170598
Party	Defendant Invitrogen Corporation
Correspondence Address	Nancy O. Dix DLA Piper US LLP 401 B Street, Suite 1700 San Diego, CA 92101-4297 UNITED STATES sdtrademark@dlapiper.com
Submission	Answer
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Date	03/24/2008
Attachments	Invitrogen Answer.pdf (4 pages)(84228 bytes)

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

ALZA CORPORATION) Opposition No.: 91170598
[Opposer])
)
)
)
vs.)
)
INVITROGEN CORPORATION)
[Applicant])
Owner of Ser. No. 78506277)
Published for Opposition: Nov. 1, 2005)
)

Box TTAB
FEE
Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES

INVITROGEN CORPORATION ("Applicant") alleges for its answer and affirmative defenses to the Opposition of ALZA CORPORATION ("Opposer"), as follows

I.

ANSWER

Responding to the individually numbered paragraphs of the Opposition, Applicant shows the Court as follows:

1. Applicant is without sufficient information to form a belief as to the truth of the allegations set forth paragraph 1 of the Opposition, and therefore denies the same.
2. Applicant is without sufficient information to form a belief as to the truth of the allegations set forth paragraph 2 of the Opposition, and therefore denies the same.

3. Applicant is without sufficient information to form a belief as to the truth of the allegations set forth paragraph 3 of the Opposition, and therefore denies the same.

4. Applicant admits the allegations of paragraph 4 of the Opposition.

5. Applicant is without sufficient information to form a belief as to the truth of the allegations set forth paragraph 5 of the Opposition, and therefore denies the same.

6. Applicant is without sufficient information to form a belief as to the truth of the allegations set forth paragraph 6 of the Opposition, and therefore denies the same.

7. Applicant admits the allegations of paragraph 7 of the Opposition.

8. Applicant is without sufficient information to form a belief as to the truth of the allegations set forth paragraph 8 of the Opposition, and therefore denies the same.

Applicant denies any remaining allegations or averments of the Opposition not expressly admitted, and denies that Applicant's trademark application should be denied and/or refused.

II.

AFFIRMATIVE DEFENSES

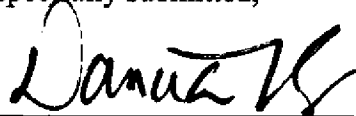
1. Applicant alleges that Opposer's Opposition is barred by the doctrine of estoppel.
2. Applicant alleges that Opposer's Opposition is barred by the doctrine of laches.
3. Applicant alleges that Opposer's Opposition is barred by the doctrine of acquiescence.
4. Applicant alleges that Opposer's Opposition is barred by the doctrine of unclean hands.
5. Applicant alleges that Opposer's Opposition is barred by the doctrine of waiver.
6. Applicant alleges that the facts set forth in Opposer's Opposition are insufficient to justify denial of its Application.

7. Applicant alleges that Opposer's has not suffered and will not suffer any loss or damage of any kind or character as a result of Applicant's conduct, any failure to act by Applicant, or Applicant's registration of the subject mark.
8. Applicant alleges that Applicant's products are different than any goods or services offered by Opposer.
9. Applicant alleges that Applicant's products travel in different channels of trade than any goods or services offered or marketed by Opposer.
10. Applicant alleges that Opposer's products target different customers than Applicant's products.
11. Applicant alleges that Opposer's alleged mark creates a different overall commercial impression than Applicant's mark.
12. Applicant alleges that there is no likelihood of confusion between Applicant's mark and Opposer's alleged mark and there have been no instances of actual confusion associated with Applicant's use of its mark.

WHEREFORE, Applicant prays that Opposer take nothing by way of its Opposition and prays that the Opposition be dismissed or a judgment entered against Opposer and that Applicant's registration proceed to issue.

Dated: March 24, 2008

Respectfully submitted,



K. Danica Ray, Esq.

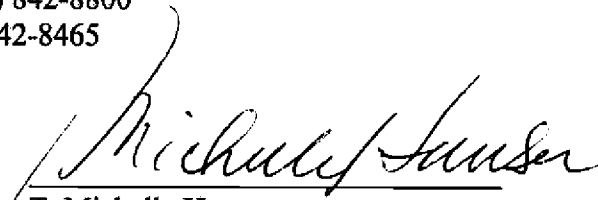
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CERTIFICATE OF SERVICE

I, T. Michelle Hauser, do hereby certify that a copy of the foregoing
APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES was served by first class mail,
postage prepaid, this 24th day of March, 2008, upon Attorneys for Opposer:

Mary Pat A. Weyback, Esq.
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Phone: (202) 842-8800
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T. Michelle Hauser

Dated: March 24, 2008