

ESTTA Tracking number: **ESTTA102119**

Filing date: **10/02/2006**

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

Proceeding	91172477
Party	Defendant Hartmann & Forbes LLC Hartmann & Forbes LLC 10655 SW Avery Street Tualatin, OR 97062
Correspondence Address	MICHAEL A. COHEN SCHWABE, WILLIAMSON & WYATT, P.C. 1211 SW 5TH AVE STE 1600-1900 PORTLAND, OR 97204-3713
Submission	Answer
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Date	10/02/2006
Attachments	Answer.pdf (5 pages)(557258 bytes)

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

In the Matter of Trademark Application Serial No. 78/767,103
For the mark: SOLARWEAVE
Published in the Official Gazette on August 22, 2006

TOTAL WINDOW, INC.,

Opposer,

No. 91/172477

vs.

ANSWER

HARTMANN & FORBES, LLC,

Applicant.

ANSWER

HARTMANN & FORBES, LLC ("Applicant") submits this Answer to Opposer Total Window, Inc.'s ("Opposer") Notice of Opposition ("Opposition").

1. Answering Paragraph 1 of the Opposition, Applicant admits the allegations contained therein.
2. Answering Paragraph 2 of the Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and on that basis denies each and every allegation contained therein.
3. Answering Paragraph 3 of the Opposition, Applicant admits that it began using mark SOLARWEAVE in March 2005. Applicant lacks sufficient knowledge or information regarding the remaining allegations contained in Paragraph 3, and on that basis denies each and every remaining allegation contained therein.

4. Answering Paragraph 4 of the Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and on that basis denies each and every allegation contained therein.

5. Answering Paragraph 5 of the Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and on that basis denies each and every allegation contained therein.

6. Answering Paragraph 6 on the Opposition, Applicant denies that Opposer has sought to cancel the mark; Applicant admits that if it is granted a registration for Application Serial No. 78/767,103, it would thereby obtain a prima facie exclusive right to use the SOLARWEAVE mark in connection with the goods recited in such registration. Applicant lacks sufficient knowledge or information regarding the remaining allegations contained in Paragraph 6, and on that basis denies each and every remaining allegation contained therein.

7. Answering Paragraph 7 of the Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and on that basis denies each and every allegation contained therein.

8. Answering Paragraph 8 of the Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and on that basis denies each and every allegation contained therein.

9. Answering Paragraph 9 of the Opposition, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and on that basis denies each and every allegation contained therein.

DEFENSES

Applicant alleges the following defenses:

FIRST DEFENSE

As a first defense, Applicant asserts that Opposer's Notice of Opposition fails to state a claim for relief.

SECOND DEFENSE

As a second defense, Applicant asserts that Opposer has suffered no damage, nor will it suffer damage in the future, by the registration of Applicant's SOLARWEAVE mark.

FOURTH DEFENSE

As a fourth defense, Applicant asserts that its SOLARWEAVE mark is not used on any goods or for any services that are likely to be confused with any alleged goods or services of Opposer.

FIFTH DEFENSE

As a fifth defense, Applicant asserts that its target customers are not likely to confuse Applicant's goods with any goods on which Opposer allegedly uses its mark.

SIXTH DEFENSE

As a sixth defense, Applicant asserts that its channels of trade are different and can be distinguished from the channels of trade through which Opposer markets or allegedly markets goods under its mark, and therefore there is no likelihood of confusion.

DATED: October 2, 2006

Respectfully Submitted,

/Michael A. Cohen/
Michael A. Cohen
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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October, 2006, I caused to be served the foregoing Answer on the following party at the following address:

J. Rodman Steele, Jr.
Akerman Snetterfitt
222 Lakeview Avenue, Suite 400
West Palm Beach, FL 33401-6183
Fax: (561) 659-6313

by:

- U.S. Postal Service, ordinary first class mail
- U.S. Postal Service, certified or registered mail,
- return receipt requested
- hand delivery
- facsimile
- electronic service
- other (specify)

/Jennifer L. Jolley.....