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

Proceeding	91174914
Party	Defendant Sci Protek, Inc.
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Date	09/07/2007
Attachments	Answer.9.07.pdf (3 pages)(145324 bytes)

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

* * *

In the Matter of:
Application Serial No. 78/861,444
Mark: **Dispense**
Published for Opposition: **November 21, 2006**

AQUATROLS CORPORATION OF AMERICA, INC.)	Opposition No. 91174914
)	
Opposer,)	
)	
v.)	ANSWER OF SCI PROTEK, INC.
)	
SCI PROTEK, INC.)	
)	
Applicant)	
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ANSWER TO NOTICE OF OPPOSITION

In response to the Notice of Opposition dated December 18, 2006, Applicant SCI PROTEK, INC. ("Applicant"), answers the Notice of Opposition filed by AQUATROLS CORPORATION OF AMERICA, INC. ("Opposer") as follows:

Applicant denies that Opposer will be damaged by the issuance of a registration for the mark DISPENSE, as applied for in application Serial No. 78/861,444 filed April 13, 2006 by Applicant.

Applicant hereby answers Opposer's grounds for opposition as follows:

1. In response to the allegations of paragraph 1 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a basis to admit or deny the allegations of said paragraph, and therefore denies each and every allegation in said paragraph.
2. Applicant admits that according to the available records of the United States Patent and Trademark Office, Opposer appears to be the owner of United States Trademark Registration No. 2,610,694 ("the '694 Registration") for the mark DISPATCH for use on liquid soil penetrant for use in horticulture and agriculture; applicant lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 2 of the Notice of Opposition and, therefore denies such allegations.

3. Applicant admits the allegations of paragraph 3 of the Notice of Opposition.
4. Applicant denies the allegations of paragraph 4 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

In further response to the Notice of Opposition, the Applicant asserts that:

First Affirmative Defense

1. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.

Second Affirmative Defense

2. Opposer is not likely to be damaged by registration of Applicant's mark, and, therefore, lacks standing to oppose registration of the same.

Third Affirmative Defense

3. Any rights Opposer may have in its asserted mark as set forth in the Notice of Opposition are limited and narrow in scope of protection, and, therefore, no likelihood of confusion exists between Opposer's mark as applied to Opposer's goods and Applicant's DISPENSE mark as applied to Applicant's goods.

Fourth Affirmative Defense

4. Applicant's use of its DISPENSE mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

Fifth Affirmative Defense

5. Applicant's goods are sufficiently distinctively different from Opposer's goods to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's goods with Opposer.

Sixth Affirmative Defense


6. Applicant's mark, when used in connection with Applicant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods by Opposer.

RELIEF REQUESTED

In view of the foregoing, Applicant respectfully requests that the relief requested by Opposer be denied, that the Opposition be overruled and/or dismissed with prejudice, and that the registration of Applicant's Trademark Application Serial No. 78/861,444 be granted.

Dated: September 7, 2007.

Respectfully Submitted,

By 
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

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on September 7, 2007.

Signed:



Deniece Turner

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