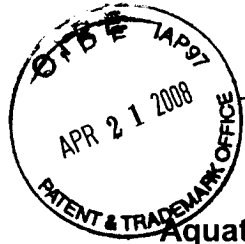


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD



**TTAB**

Aquatrols Corporation of America, Inc. )  
)  
Opposer, )  
)  
v. )  
)  
Sci Protek, Inc. )  
)  
Applicant. )

Opposition No. 91174914  
Application Serial No. 78861444

**OPPOSER'S RESPONSE TO APPLICANT'S MOTION TO AMEND**

Opposer, Aquatrols Corporation of America, Inc. ("Aquatrols"), hereby responds to applicant's Motion to Amend as filed on March 31, 2008.

Opposer realizes that the Board liberally allows parties to amend pleadings and, therefore, does not oppose the amendment of applicant's pleading at this early stage in discovery in this opposition, and awaits a Board order setting the date for the filing of opposer's Answer to the counterclaim. However, opposer vehemently disputes the substantive assertions in the applicant's motion, memorandum, declaration and proposed Amended Answer and Counterclaim, and opposer objects to the notion that its DISPATCH trademark is descriptive or generic as now asserted by applicant.

Indeed, opposer's DISPATCH trademark is well known in the trade as a trademark, and, significantly, opposer's U.S. Trademark Registration No. 2,610,694 is incontestable. See, e.g., attached Exhibit 1, which is a copy of the USPTO's Notice of Acceptance of opposer's Section 8 Declaration and Notice of Acknowledgment of



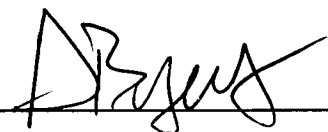
04-21-2008

opposer's Section 15 Declaration.

Moreover, and contrary to the allegations of applicant in its motion papers, opposer has never admitted that its DISPATCH trademark is descriptive or generic. In this regard, see Exhibits A-F of applicant's motion, which are copies of applicant's discovery requests and opposer's discovery responses – none of which admit any descriptiveness or genericness of opposer's DISPATCH trademark.<sup>1</sup>

Respectfully submitted,

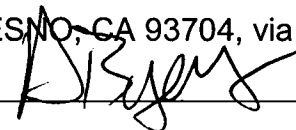
**Aquatrols Corporation of America, Inc.**

By:  \_\_\_\_\_

Duane M. Byers  
NIXON & VANDERHYE P.C.  
901 N. Glebe Road, Suite 1100  
Arlington, Virginia 22203  
Tel: 703-816-4009  
Attorneys for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing "**OPPOSER'S RESPONSE TO APPLICANT'S MOTION TO AMEND**" was served on Applicant's counsel, Mark Miller at KIMBLE, MACMICHAEL & UPTON, 5260 N. PALM AVE, SUITE 221, FRESNO, CA 93704, via first-class mail on April 21, 2008.

 \_\_\_\_\_

<sup>1</sup> Opposer denies that its discovery responses were untimely or otherwise improper under the rules of practice and the circumstances of this matter. This issue is currently being debated by the parties. If necessary, opposer will file a motion to address this issue, but is hopeful that a motion will not be necessary.



**UNITED STATES PATENT AND TRADEMARK OFFICE**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
www.uspto.gov

REGISTRATION NO: 2610694 SERIAL NO: 76/310965 MAILING DATE: 04/08/2008  
REGISTRATION DATE: 08/20/2002  
MARK: DISPATCH  
REGISTRATION OWNER: Aquatrols Corporation of America, Inc.

**CORRESPONDENCE ADDRESS:**

STANLEY B. KITA  
HOWSON & HOWSON LLP  
501 OFFICE CENTER DR  
SUITE 210  
FORT WASHINGTON, PA 19034

**NOTICE OF ACCEPTANCE**

15 U.S.C. Sec. 1058(a)(1)

THE COMBINED AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

\*\*\*\*\*

**NOTICE OF ACKNOWLEDGEMENT**

15 U.S.C. Sec. 1065

THE AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 15 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1065.

ACCORDINGLY, THE SECTION 15 AFFIDAVIT IS ACKNOWLEDGED.

\*\*\*\*\*

**THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):**

001.

CLINKSCALES, ARLENE L  
PARALEGAL SPECIALIST  
POST-REGISTRATION DIVISION  
571-272-9500

**PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION  
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION  
ORIGINAL**



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## **REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION**

### **I) SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

**Failure to file the Section 8 Affidavit will result in the cancellation of the registration.**

### **II) SECTION 9: APPLICATION FOR RENEWAL**

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

**Failure to file the Application for Renewal will result in the expiration of the registration.**

**NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.**