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

Proceeding	91184832
Party	Defendant Tracker Marine, L.L.C.
Correspondence Address	WILLIAM B. KIRCHER BLACKWELL SANDERS LLP 4801 MAIN ST STE 1000 KANSAS CITY, MO 64112-2551 pto-kc@blackwellsanders.com
Submission	Answer
Filer's Name	David L. Rein, Jr.
Filer's e-mail	david.rein@huschblackwell.com
Signature	/s/ David L. Rein, Jr.
Date	07/31/2008
Attachments	91184832.pdf (4 pages)(188393 bytes)

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

Sunseeker International Limited,)	Opposition No.: 91184832
)	
Opposer,)	Serial No.: 77/268,133
)	
v.)	Mark: Sun Tracker
)	
Tracker Marine, L.L.C.,)	
)	
Applicant.)	
)	

ANSWERS TO NOTICE OF OPPOSITION

Tracker Marine, L.L.C. (“Tracker Marine”), answers the Notice of Opposition as follows:

1. Tracker Marine admits that it owns the SUN TRACKER mark and registered the mark in International Class 12 as Trademark Registration No. 1,618,655. Tracker Marine admits that it has applied to register *Sun Tracker* with a logo, and that the application was assigned Serial No. 77/268,133 and the application lists the goods as Boats in Class 12, states that it was filed on or about August 30, 2007 and states that the date of first use in Interstate Commerce was July 30, 2007. Tracker Marine is without sufficient information to admit or deny the remaining allegations that precede the first numbered paragraph of the Notice of Opposition and therefore denies the allegations.

2. Tracker Marine admits that Opposer purports to sell yachts and offshore cruisers. Tracker Marine is without sufficient information to admit or deny the remaining allegations in numbered paragraph 1 of the Notice of Opposition and therefore denies the allegations.

3. Tracker Marine admits that Exhibit A lists Sunseeker International (Boats) Limited as the owner of a SUNSEEKER mark and Sunseeker International Limited as the Assignee. Tracker Marine is without sufficient information to admit or deny the remaining

allegations in numbered paragraph 2 of the Notice of Opposition and therefore denies the allegations.

4. Tracker Marine admits that Exhibit B lists Sunseeker International (Boats) Limited as the owner of the SUNSEEKER mark and Sunseeker International Limited as the Assignee. Tracker Marine is without sufficient information to admit or deny the remaining allegations in numbered paragraph 3 of the Notice of Opposition and therefore denies the allegations.

5. Tracker Marine is without sufficient information to admit or deny the allegations in numbered paragraph 4 of the Notice of Opposition and therefore denies the allegations.

6. Tracker Marine denies the allegations in paragraph 5 of the Notice of Opposition.

7. Tracker Marine is without sufficient information to admit or deny the allegations in paragraph 6 of the Notice of Opposition and therefore denies the allegations.

8. Tracker Marine denies the allegations in paragraph 7 of the Notice of Opposition.

9. Tracker Marine denies Opposer is entitled to any relief sought in the WHEREFORE paragraph of the Notice of Opposition.

ANSWER AS TO ALL ALLEGATIONS

10. Tracker Marine denies all allegations in the Notice of Opposition except as specifically admitted in this Answer.

AFFIRMATIVE DEFENSES

1. Opposer knew or should have known no later than July 31, 1990 that Tracker Marine was already using the SUN TRACKER mark in International Class 12 for boats. Tracker Marine is the owner of the SUN TRACKER mark which is registered as Trademark Registration

No. 1,618,655 and was published for opposition on or about July 31, 1990. The SUN TRACKER mark is incontestable. Despite Opposer's knowledge of Tracker Marine's use and registration of the SUN TRACKER mark, Opposer never took any action until it filed the Notice of Opposition in June 2008 to the *Sun Tracker* mark. Opposer's has acquiesced in Tracker Marine's use and registration of the *Sun Tracker* with the logo and is estopped to oppose its registration.

2. Tracker Marine repeats the allegations in the first affirmative defense and further states that Opposer is not entitled to oppose Tracker Marine's registration because it is guilty of laches.

3. Tracker Marine's use of the *Sun Tracker* mark with the logo is not likely to cause confusion with the SUNSEEKER mark.

4. Despite concurrent use in commerce since approximately 1982, there is not a single known instance of confusion between the SUNSEEKER and SUN TRACKER marks.

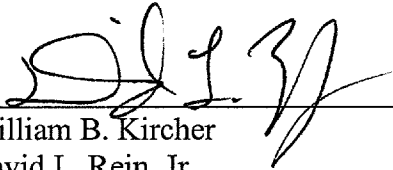
5. The SUNSEEKER mark is weak.

6. The SUNSEEKER mark is not famous or distinctive and is not of sufficient strength and recognition to entitle it to protection under the Federal Anti-Dilution Statute or any other statute or law in which the mark must be famous.

7. Tracker Marine reserves the right to assert any and all other affirmative defenses of which it may become aware during the discovery process.

WHEREFORE, Tracker Marine respectfully requests that the Opposition be dismissed.

Respectfully Submitted,



William B. Kircher

David L. Rein, Jr.

HUSCH BLACKWELL SANDERS, LLP

4801 Main Street, Suite 1000

Kansas City, Missouri 64112

Telephone: 816-983-8000

Facsimile: 816-983-8080

Attorneys for Applicant, Tracker Marine, LLC

Certificate of Service

I hereby certify that I served a copy of the foregoing Answer to Notice of Opposition upon Opposer's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid on 7/31/08, addressed as follows:

Susan M. Natland
Diane M. Reed
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
14th Floor
Irvine, CA 92614

