

ESTTA Tracking number: **ESTTA253193**

Filing date: **12/05/2008**

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

Proceeding	91187253
Party	Defendant Mannatech, Incorporated
Correspondence Address	DAVID L. ODOM AKIN GUMP STRAUSS HAUER & FELD LLP P.O. BOX 688 DALLAS, TX 75313-0688 trademarkdallas@akingump.com
Submission	Answer
Filer's Name	David L. Odom
Filer's e-mail	aashley@akingump.com, trademarkdallas@akingump.com
Signature	/DLO/
Date	12/05/2008
Attachments	Answer to Oxyfresh Opp against OSOLEAN.pdf (3 pages)(119004 bytes)

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

OXYFRESH WORLDWIDE, INC., §
§
Opposer, §
§
v. § Opposition No. 91187253
§ Application Serial No. 77/463450
§
MANNATECH, INCORPORATED, §
§
Applicant. §

ANSWER TO NOTICE OF OPPOSITION

Mannatech Incorporated (“Applicant”), by its undersigned counsel, answers the Notice of Opposition filed by Oxyfresh Worldwide, Inc. (“Opposer”) to Application No. 77/463,450 OSOLEAN, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 1 of the Notice of Opposition, and thereby denies the same.
2. Denied.
3. Denied.
4. Admitted.
5. Admitted.
6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 6 of the Notice of Opposition, and thereby denies the same.
7. Denied.

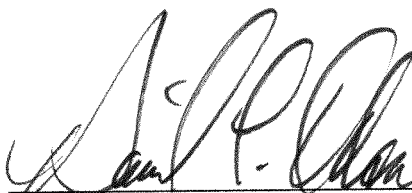
AFFIRMATIVE DEFENSE

1. The Notice of Opposition fails to state a claim on which relief can be granted.
2. Applicant's OSOLEAN mark that is subject of Application Serial No. 77/463,450 is not likely to be confused, mistaken, or deceived with Opposer's O SO SLENDER mark that is the subject of U.S. Trademark Registration No. 3,411,887 because there are significant differences between the marks.

PRAYER

WHEREFORE, Applicant prays that Opposition No. 91187253 be denied, that Application Serial No. 77/463,450 proceed and that a Notice of Allowance be issued on the application.

Dated: December 5, 2008



Sanford E. Warren, Jr.
David L. Odom
AKIN GUMP STRAUSS HAUER & FELD, LLP
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201-4618
Telephone: (214) 969-2800
Facsimile: (214) 969-4343

ATTORNEYS FOR APPLICANT
MANNATECH INCORPORATED

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of December, 2008, a true and correct copy of the foregoing Answer to Notice of Opposition has been served on Opposer by mailing said copy via First Class mail, postage prepaid to:

David R. Fairbairn
The Kinney & Lange Building
312 South Third Street
Minneapolis, MN 55415-1002

