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

Proceeding	91189848
Party	Defendant SERIOUS MATERIALS, LLC
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Date	06/01/2009
Attachments	TTAB - THERMACOAT Answer.pdf (4 pages)(25929 bytes)

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

In the Matter of Trademark Application Serial No. 77/360,522
For the Mark THERMACOAT
Published in the *Official Gazette* on February 10, 2009

THERMA-COTE, INC., **Opposer,** **v.** **SERIOUS MATERIALS, LLC,** **Applicant.**	**Opposition No. 91189848**

APPLICANT'S ANSWER AND RESPONSE TO NOTICE OF OPPOSITION

Applicant, Serious Materials, LLC ("Applicant"), hereby answers and responds to the Notice of Opposition filed by Opposer, Therma-Cote, Inc., as follows:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 1 of the Notice of Opposition, and therefore denies the same.

2. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 2 of the Notice of Opposition, and therefore denies the same.

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 3 of the Notice of Opposition, and therefore denies the same.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 4 of the Notice of Opposition, and therefore denies the same.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 5 of the Notice of Opposition, and therefore denies the same.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 6 of the Notice of Opposition, and therefore denies the same.

7. Applicant denies the allegations recited in paragraph 7 of the Notice of Opposition.

8. Applicant admits that on or about December 27, 2007 it filed an application for the mark THERMACOAT for "Coating composition in the nature of paint for industrial applications; Elastomeric-based coatings for use on roofs, walls and building foundations; Paints and coatings; Sealer coatings for use in land, air and water vehicles; coating compositions in the nature of paint for industrial applications; Coatings, namely stains and clear finishes for exterior and interior use on a variety of substrates" in International Class 2 and "Acoustic and thermal insulation for use in the automotive, HVAC, appliance and commercial interior industries; Electric, thermal and acoustic insulators" in International Class 17.

9. Applicant denies the allegations recited in paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations recited in paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations recited in paragraph 11 of the Notice of Opposition.

WHEREFORE, Applicant prays for relief as follows:

1. that the Notice of Opposition be denied and dismissed with prejudice; or

2. in the alternative, if the Notice of Opposition is not denied and dismissed with prejudice, that Applicant be granted a concurrent registration of its THERMACOAT mark on the Principal Register; or

3. in the alternative, if the Notice of Opposition is not denied and dismissed with prejudice, that Applicant's THERMACOAT application be amended and sustained with a restrictive identification of a form to be identified by the Trademark Trial and Appeal Board; and

4. for such other and further relief to which Applicant may be entitled.

Dated: June 1, 2009

Respectfully submitted,

By: /Jennifer M. Lantz/

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Attorneys for Applicant,
Serious Materials, LLC

CERTIFICATE OF SERVICE

I, Lynda Vargem, declare as follows:

I am a resident of the State of California. I am employed in Santa Clara County, State of California, in the office of attorneys for Applicant, Serious Materials, LLC., at whose direction the service was made. I am over the age of eighteen years and not a party to the within action. My business address is 2033 Gateway Place, Suite 400, San Jose, California 95110. On the date set forth below I served:

APPLICANT'S ANSWER AND RESPONSE TO NOTICE OF OPPOSITION

☒ By placing such a copy enclosed in a sealed envelope, postage thereon fully prepaid, in the United States Postal Service for collection and mailing this day in accordance with ordinary business practices at Haynes & Boone LLP.

☐ By consigning such a copy to a messenger for guaranteed hand delivery.

☐ By consigning such copy to an overnight courier for guaranteed next day delivery.

☐ By consigning such copy (without exhibits) to a facsimile operator at fax number (408) 392-9262 for transmittal on this date to the addressee(s) listed below.

I served the above document(s) on the following persons:

Jason D. Rosenberg
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, GA 30309
Jason.rosenberg@alston.com

I am readily familiar with Haynes & Boone LLP's practice for collection and processing of correspondence for delivery according to instructions indicated above. In the ordinary course of business, correspondence would be handled accordingly.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed at San Jose, California, on June 1, 2009.

/Lynda Vargem/
Lynda Vargem