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

Proceeding	91200556
Party	Defendant ATG Ceylon (PVT) Limited
Correspondence Address	BRADLEY M. STOHR ICE MILLER LLP 1 AMERICAN SQ STE 2900 INDIANAPOLIS, IN 46282-0015  ipdocket@icemiller.com
Submission	Answer
Filer's Name	Bradley M. Stohry
Filer's e-mail	stohry@icemiller.com, fifty@icemiller.com, ipdocket@icemiller.com
Signature	/bms/
Date	08/15/2011
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE  
THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 85164978  
Filed: October 29, 2010  
For the Mark: MAXIDEX  
Published in the Official Gazette on: March 29, 2011

Showa Glove Co.,	)	
	)	
<i>Opposer,</i>	)	
	)	
v.	)	Opposition No.: 91200556
	)	
ATG Ceylon (PVT) Limited,	)	
	)	
<i>Applicant.</i>	)	

**ANSWER TO NOTICE OF OPPOSITION**

ATG Ceylon (PVT) Limited ("Applicant"), by its undersigned legal counsel, in response to the Notice of Opposition filed by Showa Glove Co. ("Opposer"), states as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in paragraph 1, and therefore denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in paragraph 2, and therefore denies the same.
3. Applicant admits that Opposer is the owner of U.S. Registration Nos. 1,701,906, 2,729,032, 3,109,845 and 2,691,302. However, Applicant is without knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations and inferences contained in paragraph 3, and therefore denies the same.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in paragraph 4, and therefore denies the same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in paragraph 5, and therefore denies the same.

6. Applicant denies that Opposer has acquired any exclusivity in the letters "DEX." Applicant is without knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations and inferences contained in paragraph 6, and therefore denies the same.

7. Applicant admits that it is is an unlisted privately owned limited liability partnership organized under the laws of Sri Lanka and that its principal place of business is located at Spur Road 7, Phase 2, IPZ, Katunayake, Sri Lanka.

8. Applicant admits the allegations contained in paragraph 8.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in paragraph 9, and therefore denies the same.

10. Applicant denies the allegations contained in paragraph 10.

11. Applicant denies the allegations contained in paragraph 11.

#### **AFFIRMATIVE AND OTHER DEFENSES**

1. Opposer fails to state a claim upon which relief may be granted.

2. Opposer is not entitled to the relief sought because Applicant's MAXIDEX mark is entirely different than Opposer's N-DEX, N-DEX FREE, NITRIDEX and CLEAN-DEX marks, such that consumers are not likely to be confused as the result of the coexistence of Applicant's MAXIDEX mark and Opposer's N-DEX, N-DEX FREE, NITRIDEX and CLEAN-DEX marks.

3. Opposer is not entitled to the relief sought because Applicant cannot reasonably claim to have exclusive rights in the DEX formative. (*See* U.S. Reg. No. 3,114,488 for FINEDEX; U.S. Reg. No. 3,317,141 for HIDEEX; U.S. Reg. No. 3,759,769 for CROYDEX; U.S.

Reg. No. 2,810,365 for AMBI-DEX; U.S. Reg. No. 1,753,716 for FIRE-DEX; and U.S. Reg. No. 3,109,558 for DEXPURE.)

4. Opposer is not entitled to the relief sought because Applicant's MAXIDEX mark and Opposer's N-DEX, N-DEX FREE, NITRIDEX and CLEAN-DEX marks have peacefully coexisted for years in the European market and on the European trademark register without any issue of consumer confusion. (See Applicant's CTM Reg. No. 008740912 and Opposer's CTM Reg. Nos. 006626808, 004380838, 001485358 and 000854919.) Likewise, there will not be any likely consumer confusion as the result of the coexistence of Applicant's MAXIDEX mark and Opposer's N-DEX, N-DEX FREE, NITRIDEX and CLEAN-DEX marks in the U.S. and/or on the Principal Register.

WHEREFORE, Applicant prays that Opposer's Notice of Opposition be denied and dismissed, with prejudice, and for all other proper relief in the premises.

Respectfully submitted,

Dated: August 15, 2011

s/Bradley M. Stohry/  
Bradley M. Stohry  
ICE MILLER LLP  
One American Square  
Suite 2900  
Indianapolis, Indiana 46282-0200  
(317) 236-2100

Attorney for Applicant ATG Ceylon (PVT) Limited

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing will be served upon the following by first-class United States mail, postage prepaid, on August 15, 2011:

Lawrence K. Nodine  
Katrina M. Quicker  
BALLARD SPAHR LLP  
999 Peachtree Street, Suite 1000  
Atlanta, GA 30309-3915

s/Bradley M. Stohry/\_\_\_\_\_  
Bradley M. Stohry

ICE MILLER LLP  
One American Square  
Suite 2900  
Indianapolis, Indiana 46282-0200  
(317) 236-2100