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

Proceeding	91203267
Party	Defendant DATCARD SYSTEMS, INC.
Correspondence Address	STACEY R. HALPERN KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 MAIN ST FL 14 IRVINE, CA 92614-8214 efiling@kmob.com
Submission	Answer
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Date	02/14/2012
Attachments	Answer to Notice of Opposition.pdf (6 pages)(501000 bytes)

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

DATACARD CORPORATION,

Opposer,

v.

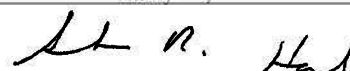
DATCARD SYSTEMS, INC.,

Applicant.

) U.S. Opposition No.: 91203267

) I hereby certify that this correspondence and all marked
) attachments are being electronically filed with the
) Trademark Trial and Appeal Board of the U.S. Patent and
) Trademark Office through their website located at
) <http://esta.uspto.gov> on:

February 14, 2012



Stacey R. Halpern

ANSWER TO NOTICE OF OPPOSITION
AND AFFIRMATIVE DEFENSES

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

Dear Sir:

Datcard Systems, Inc. (“Datcard”) hereby answers the Notice of Opposition filed by Datacard Corporation (“Opposer”) against registration of Datcard’s mark DATCARD, U.S. Application Serial No. 85366732, as set forth below.

1. Answering Paragraph 1 of the Notice of Opposition, Datcard admits the allegations contained therein.
2. Answering Paragraph 2 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly denies the allegations set forth in Paragraph 2.
3. Answering Paragraph 3 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly denies the allegations set forth in Paragraph 3.

4. Answering Paragraph 4 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly denies the allegations set forth in Paragraph 4.

5. Answering Paragraph 5 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly denies the allegations set forth in Paragraph 5.

6. Answering Paragraph 6 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly denies the allegations set forth in Paragraph 6.

7. Answering Paragraph 7 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly denies the allegations set forth in Paragraph 7.

8. Answering Paragraph 8 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly denies the allegations set forth in Paragraph 8.

9. Answering Paragraph 9 of the Notice of Opposition, Datcard denies the allegations set forth in Paragraph 9.

10. Answering Paragraph 10 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly denies the allegations set forth in Paragraph 10.

11. Answering Paragraph 11 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly denies the allegations set forth in Paragraph 11.

12. Answering Paragraph 12 of the Notice of Opposition, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegation that Opposer has any “constructive” right in the “DATACARD Marks,” As such, Datcard is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegation that “[a]t the time it filed the Application to register DATCARD, Applicant had constructive knowledge of Opposer’s rights in the DATACARD Marks”, and accordingly denies this allegation. Datcard admits it was aware of the existence of Opposer’ use of the trade name DATACARD at the time Datcard filed the Application. Datcard denies that it was aware of Opposer’s use of and registration for DATACARD at the time it adopted the name and mark DATCARD.

13. Answering Paragraph 13 of the Notice of Opposition, Datcard denies the allegations contained therein.

14. Answering Paragraph 14 of the Notice of Opposition, Datcard denies the allegations contained therein.

15. Answering Paragraph 15 of the Notice of Opposition, Datcard denies the allegations contained therein.

16. Answering Paragraph 16 of the Notice of Opposition, Datcard admits that it did not receive approval or authorization by Opposer. However, no such approval or authorization was required. Datcard denies the allegation that Opposer did not acquiesce to Datcard’s use and adoption of term.

17. Answering Paragraph 17 of the Notice of Opposition, Datcard denies the allegations contained therein.

18. Answering Paragraph 18 of the Notice of Opposition, Datcard denies the allegations contained therein.

19. Answering Paragraph 19 of the Notice of Opposition, Datcard denies the

allegations contained therein.

20. Answering Paragraph 20 of the Notice of Opposition, Datcard denies the allegations contained therein.

21. Answering Paragraph 21 of the Notice of Opposition, Datcard denies the allegations contained therein.

AFFIRMATIVE DEFENSES

Datcard alleges the following affirmative defenses.

FIRST AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails to state a claim for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer's alleged prime facie rights, if any, based on its registration are limited to the specific goods and services listed in Opposer's registrations and do not extend to any of the goods or services listed in Datcard's application.

THIRD AFFIRMATIVE DEFENSE

Datcard alleges that due Datcard's long and extensive use of the DATCARD name and mark, there is no likelihood of confusion, mistake or deception.

FIFTH AFFIRMATIVE DEFENSE

Datcard alleges Opposer is barred due to the equitable doctrine of estoppel.

SIXTH AFFIRMATIVE DEFENSE

Datcard alleges that Opposer is barred due to the equitable doctrine of laches.

SEVENTH AFFIRMATIVE DEFENSE


Datcard alleges that Opposer is barred due to the equitable doctrine of acquiescence.

WHEREFORE, Datcard prays that the Notice of Opposition be dismissed in its entirety,
and that a registration be issue to Datcard for its mark.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 14, 2012

By: 

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Irvine, CA 92614
(949) 760-0404
Attorneys for Applicant,
DATCARD SYSTEMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES** upon Opposer's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on February 14, 2012, addressed as follows:

Sarah G. Voeller
Hamre, Schumann, Mueller & Larson, P.C.
P.O. Box 2902
Minneapolis, MN 55402



Stacey R. Halpern

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