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

Proceeding	91203357
Party	Defendant Rockler Companies, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

U.S. Trademark Application Serial No. 85/206327  
Trademark: DUSTRIGHT VORTEX

Oneida Air Systems, Incorporated	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91203357
	)	
Rockler Companies, Inc.	)	
	)	
Applicant.	)	
	)	

ANSWER

Applicant, Rockler Companies, Inc. (“Applicant”), for its Answer to the Notice of Opposition filed on January 13, 2012 by Oneida Air Systems, Incorporated (“Opposer”) against U.S. Serial No. filed 85/206327, for the mark DUSTRIGHT VORTEX, pleads and avers as follows:

Applicant denies each and every allegation made in the Notice of Opposition except as hereafter admitted or qualified.

1. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 1 of the Notice of Opposition, and accordingly denies same.
2. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 2 of the Notice of Opposition, and accordingly denies same.

3. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 3 of the Notice of Opposition, and accordingly denies same.
4. Denied.
5. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 5 of the Notice of Opposition, and accordingly denies same.
6. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 6 of the Notice of Opposition, and accordingly denies same.
7. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 7 of the Notice of Opposition, and accordingly denies same.
8. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 8 of the Notice of Opposition, and accordingly denies same.
9. Denied.
10. Denied.
11. Applicant admits that the allegations in paragraph 11 of the Notice of Opposition are true.
12. Applicant admits it sells dust collection equipment intended for workshop use, but otherwise denies any additional allegations in paragraph 12 of the Notice of Opposition.
13. Applicant applies the trademark DUSTRIGHT VORTEX to vacuum cleaners and their components, vacuum cleaner attachment consisting of a container for

holding the debris for use in a workshop environment, but otherwise denies any additional allegations in paragraph 13 of the Notice of Opposition.

14. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 14 of the Notice of Opposition, and accordingly denies same.
15. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 15 of the Notice of Opposition, and accordingly denies same.
16. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 16 of the Notice of Opposition, and accordingly denies same.
17. Applicant has conducted business with Opposer, otherwise Applicant lacks sufficient knowledge or information to admit or deny the allegations in paragraph 17 of the Notice of Opposition, and accordingly denies same.
18. Applicant has conducted business with Opposer, otherwise Applicant lacks sufficient knowledge or information to admit or deny the allegations in paragraph 18 of the Notice of Opposition, and accordingly denies same.
19. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 19 of the Notice of Opposition, and accordingly denies same.
20. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 20 of the Notice of Opposition, and accordingly denies same.
21. The answer would call for a legal conclusion, Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 21 of the Notice of Opposition, and accordingly denies same.

22. Applicant filed an intent to use trademark application on December 28, 2010, Serial No. 85/206327, otherwise Applicant lacks sufficient knowledge or information to admit or deny the additional allegations in paragraph 22 of the Notice of Opposition, and accordingly denies same.
23. Applicant's trademark application Serial No. 85/206327 contains a signed declaration whose contents are of public record, otherwise Applicant lacks sufficient knowledge or information to admit or deny the additional allegations in paragraph 23 of the Notice of Opposition, and accordingly denies same.
24. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 24 of the Notice of Opposition, and accordingly denies same.
25. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 25 of the Notice of Opposition, and accordingly denies same.
26. The count is so vague or ambiguous that it cannot be answered, Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 26 of the Notice of Opposition, and accordingly denies same.
27. The answer would call for a legal conclusion, further, Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 27 of the Notice of Opposition, and accordingly denies same.
28. The answer would call for a legal conclusion, further Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 28 of the Notice of Opposition, and accordingly denies same.
29. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 29 of the Notice of Opposition, and accordingly denies same

30. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 30 of the Notice of Opposition, and accordingly denies same.
31. The answer would call for a legal conclusion, further, Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 31 of the Notice of Opposition, and accordingly denies same.
32. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 32 of the Notice of Opposition, and accordingly denies same.
33. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 33 of the Notice of Opposition, and accordingly denies same.
34. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 34 of the Notice of Opposition, and accordingly denies same.
35. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 35 of the Notice of Opposition, and accordingly denies same.
36. The answer would call for a legal conclusion, further, Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 36 of the Notice of Opposition, and accordingly denies same.
37. Applicant lacks sufficient knowledge or information to admit or deny the allegation in paragraph 37 of the Notice of Opposition, and accordingly denies same.

## AFFIRMATIVE DEFENSES

Applicant asserts the following affirmative defenses:

First Affirmative Defense.

In the relevant channels of trade, Opposer has not used the mark ONIEDA VORTEX on any goods which are confusingly similar to Applicant's goods in the present trademark application, prior to Applicant's first use or filing date.

Second Affirmative Defense.

In the relevant channels of trade, Opposer has not used the mark ONIEDA VORTEX on goods prior to Applicant's first use or filing date.

Third Affirmative Defense.

The word vortex describes a function of Opposer's product upon which this opposition is based and hence is not entitled to significant weight, leaving only the word ONEIDA, which, in the relevant channels of trade, is not confusingly similar to Applicant's mark.

Fourth Affirmative Defense.

In the mark, ONEIDA VORTEX, the term ONEIDA is substantially dominant and Applicant's mark, in the relevant channels of trade, is not confusingly similar thereto.

Fifth Affirmative Defense.

Opposer does not have the exclusive right to use VORTEX in connection with dust collection/vacuum equipment as evidenced by, inter alia, third party registrations for the mark, VORTEX.

Sixth Affirmative Defense.

Applicant has filed an extension of time to oppose Opposer's application for registration of ONEIDA VORTEX and is likely be opposed by Applicant under 15 U.S.C. § 1068 as having an overly broad identification of goods which is not adequately supported by actual use.

Seventh Affirmative Defense.

The Notice of Opposition fails to state a claim on which relief can be granted.

Eighth Affirmative Defense

In the relevant channels of trade, there is no likelihood of confusion, mistake or deception between Opposer's mark ONEIDA VORTEX and Applicant's mark DUSTRIGHT VORTEX.

Applicant respectfully requests that the Board dismiss the Notice of Opposition, that a federal trademark registration be issued for Applicant's Serial No. 85/206327, and that the Board grant Applicant such other and further relief as deemed just and proper under the circumstances of this case.

Respectfully submitted,

    /Michael Lasky    

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Answer has been served upon Opposer, Oneida Air Systems, Inc. by email to the email address of molldrem@dreamscape.com, the parties having stipulated to email service.

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\_\_\_\_\_/Michael Lasky/\_\_\_\_\_  
Michael B. Lasky