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

Proceeding	91207623
Party	Defendant MTC Marketing Inc AKA Common Union
Correspondence Address	MICHAEL LASANE MTC MARKETING INC 1624 W CROSBY RD STE 144 CARROLLTON, TX 75006-6676 UNITED STATES mike@mtcmarketinginc.com
Submission	Answer
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Date	02/15/2013
Attachments	Answer_FINAL.pdf (7 pages)(31028 bytes)

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

In the matter of Application Serial No. 85/597,944

Published in the Official Gazette: October 16, 2012

For the Mark: COMMON UNION



_____)	Opposition No. 91207623
Seattle Pacific Industries, Inc.,)	
)	
Opposer)	
)	
v.)	
)	
MTC Marketing Inc AKA Common Union,)	
)	
Applicant.)	
_____)	

ANSWER TO NOTICE OF OPPOSITION

Applicant, MTC Marketing, Inc. (“Applicant”), by its undersigned counsel, answers the Notice of Opposition filed by Seattle Pacific Industries, Inc. as follows:

Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the preamble/introductory paragraph of the Notice of Opposition, and, therefore, denies the same.

1. Applicant lacks knowledge or information sufficient to form a belief as to the

truth or falsity of the allegations contained 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 or falsity of the allegations contained 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 or falsity of the allegations contained 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 or falsity of the allegations contained 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 or falsity of the allegations contained 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 or falsity of the allegations contained in Paragraph 6 of the Notice of Opposition, and, therefore, denies the same.

7. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 of the Notice of Opposition, and, therefore, denies the same.

8. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 8 of the Notice of Opposition, and, therefore, denies the same.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 9 of the Notice of Opposition, and, therefore, denies the same.

10. Applicant admits that it filed Application Serial No. 85/597,944. Applicant denies all remaining allegations in Paragraph 10.

11. Applicant denies the allegations contained in Paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations contained in Paragraph 12 of the Notice of Opposition.

13. Applicant admits that Application Serial No. 85/597,944 states a first use date of March 30, 2012. Applicant denies the remaining allegations contained in Paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations contained in Paragraph 14 of the Notice of Opposition.

WHEREFORE, Applicant, MTC Marketing, Inc. prays that the Board will enter an order of judgment in its favor, denying the Notice of Opposition, and ordering such other relief as it may find to be just.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Applicant contends that a comparison of the Applicant's and Opposer's marks and goods under the analysis set forth in *In re E. I. duPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973), or any other acceptable test for determining a likelihood of confusion, does not support a refusal to register Applicant's application in view of Opposer's registrations.

Applicant further contends that Opposer has not and will not be injured or otherwise harmed by Applicant's registration or use of the design mark COMMON UNION in connection with "Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms."

SECOND AFFIRMATIVE DEFENSE

Opposer has not stated a claim upon which a relief can be granted.

THIRD AFFIRMATIVE DEFENSE

Opposer's claims are barred by the doctrine of equitable estoppel

FOURTH AFFIRMATIVE DEFENSE

Opposer's claims are barred by the doctrine of unclean hands.

FIFTH AFFIRMATIVE DEFENSE

Opposer's claims are barred by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

Opposer's claims are barred by the doctrine of laches.

SEVENTH AFFIRMATIVE DEFENSE

Opposer's claims are barred by the doctrine of acquiescence.

ADDITIONAL AFFIRMATIVE DEFENSES

There may be additional affirmative defenses to Opposer's Notice of Opposition that are currently unknown to Applicant. Applicant, therefore, reserves the right to amend this Answer to allege additional affirmative defenses in the event discovery or other information indicates that they are appropriate.

WHEREFORE, Applicant, having made full answers, prays for judgment in his favor for dismissal of this Opposition, and for allowance of its application.

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Dated: February 15, 2013

Respectfully Submitted,

By: /John K. Buche/

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ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

On **February 15, 2013**, I served the following **ANSWER TO NOTICE OF OPPOSITION** on the following interested parties in this action:

Kevin S. Costanza
SEED IP LAW GROUP PLLC
701 Fifth Ave, STE 5400
Seattle, WA 98104
kevinc@seedip.com, litcal@seedip.com
Attorney for Opposer

In the manner of service as follows:

 X **(U.S. MAIL)**: I placed an original or a true and correct copy of the foregoing document(s) in a sealed envelope(s) addressed as indicated above. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid as La Jolla, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **Friday, February 15, 2013** at La Jolla, California.

By: /Celia Balog/

CERTIFICATE OF TRANSMITTAL

This is to certify that the attached Answer to Notice of Opposition is being filed electronically with the TTAB via ESTTA on February 15, 2013.

/Lindsay D. Molnar/

Attorney for Applicant