

ESTTA Tracking number: **ESTTA566737**

Filing date: **10/23/2013**

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

Proceeding	91212476
Party	Defendant Heizer Defense, LLC
Correspondence Address	DENNIS JM DONAHUE III CREATIVENTURE LAW, LLC 10425 OLD OLIVE STREET RD STE 202 SAINT LOUIS, MO 63141-5940  ddonahue@creativenturelaw.com;iplaw@den
Submission	Answer
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Date	10/23/2013
Attachments	Answer to Opposition.pdf(27592 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Before the Trademark Trial and Appeal Board

HODGDON POWDER COMPANY, INC.,            )  
  )  
  ) Opposer,  
  )  
v.    ) Opposition No. 91212476  
  ) Serial No. 85907208  
  )  
HEIZER DEFENSE, LLC,                        )  
  )  
  ) Applicant  
  )

**ANSWER**

Comes Now Applicant HEIZER DEFENSE, LLC, and answers the Notice of Opposition as follows:

1. Applicant denies the allegations in paragraph 1 of the Notice of Opposition.
2. Applicant denies the allegations of the first sentence of paragraph 2 of the Notice of Opposition and admits the second sentence, while noting that Registration No. 0862601 has expired due to Opposer’s failure to renew the registration.
3. Applicant denies the allegations in paragraph 3 of the Notice of Opposition.
4. Applicant affirmatively pleads that Opposer’s marks do not include a “shield”, but instead include a **circular field** design, as shown in Opposer’s marks and particularly described in Opposer’s pending Serial No. 85888852. Furthermore, Opposer’s marks include a single flame over the H in the circular field and do not have flames emanating from the circular field.
5. Applicant affirmatively pleads that Opposer had offered to Applicant a co-existence arrangement, in which Opposer would agree not to challenge or object to Applicant’s use or registration of a color version of Applicant’s logo mark with the blue and orange color, as shown on Applicant’s website ([www.heizerdefense.com](http://www.heizerdefense.com)).

WHEREFORE, Applicant requests that this opposition be dismissed and that registration of Applicant's mark in Serial No. 85907208 be granted.

\_\_\_\_\_/Adam L. Bagwell\_\_\_\_\_  
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Attorneys for Applicant

Dated: October 23, 2013

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing ANSWER was served by mail, First Class postage prepaid, on the Attorney for Opposer at the following address on this 23rd day of October, 2013:

Joseph B. Bowman  
Erickson, Kernell, Derusseau & Kleypas, LLC  
180 W Liberty Lane  
Payson, AZ 85541

\_\_\_\_\_/Adam L. Bagwell/\_\_\_\_\_  
Adam L. Bagwell