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

Proceeding	91216061
Party	Defendant Axtron Global LLC
Correspondence Address	Kristin L Petersen Gonzalez Saggio & Harlan LLP 2 N. Lake Ave.Suite 930 PASADENA, CA 91101 UNITED STATES kristin_petersen@gshllp.com
Submission	Answer
Filer's Name	Kristin L. Petersen
Filer's e-mail	kristin_petersen@gshllp.com
Signature	/Kristin L. Petersen/
Date	08/29/2014
Attachments	14.08.29 Answer to Opposition RGB Systems.pdf(198527 bytes)

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

In re Application of:	Axtron Global LLC
Serial No.:	86/063,642
Filed:	September 13, 2013
Published:	March 25, 2014
MARK:	AXTRON (design)

RGB Systems, Incorporated Opposer, v. Axtron Global, LLC, Applicant.	)	Opposition No. 91216061

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

ANSWER TO NOTICE OF OPPOSITION

Axtron Global LLC ("Applicant") hereby answers RGB Systems, Incorporated's ("Opposer") Notice of Opposition as follows:

1. Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition and, therefore, denies said allegations.
2. Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 2 of the Notice of Opposition and, therefore, denies said allegations.

3. Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Notice of Opposition and, therefore, denies said allegations.
4. Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 4 of the Notice of Opposition and, therefore, denies said allegations.
5. Applicant admits the allegations set forth in Paragraph 5 of the Notice of Opposition.
6. Applicant admits the allegations set forth in the first three sentences of Paragraph 6 of the Notice of Opposition, with the exception of the reference to "UG" in the last sentence of Paragraph 4 of the Notice of Opposition. Applicant has insufficient knowledge or information to form a belief as to the truth of any allegations related to "UG".
7. Applicant denies the allegations set forth in Paragraph 7 of the Notice of Opposition.
8. Applicant denies the allegations set forth in Paragraph 8 of the Notice of Opposition.
9. Applicant denies the allegations set forth in Paragraph 9 of the Notice of Opposition.
10. Applicant denies the allegations set forth in Paragraph 10 of the Notice of Opposition.
11. Applicant denies the allegations set forth in Paragraph 11 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Applicant's Proposed Amendment to its Application Avoids Any Likelihood of Confusion

Applicant has proposed to Opposer an amendment to the identification of goods listed in its application. Such amendment will avoid a likelihood of confusion between Applicant's mark and Opposer's mark. Applicant will file a Motion to Amend its application pursuant to 37 CFR

§ 2.133 to amend the identification of goods in its application to delete from the identification of goods:

> "cellular phones; amplifiers; memory cards; television sets; digital cameras; laser equipment for non-medical purposes; laser pointers; AM transmitters; turntables, namely, record players; printers; scanners; personal computers; keyboards; LED touch screens; LCD computer screens; audio converters; extension cables; audio cables; video cables; control signal cables; audio adapters; video adapters; network routers; USB cables; microchips; electronic components for computers; batteries; electronic circuits; circuit boards; electronic chips for the manufacturer of integrated circuits; programmable logic controller; signal processors; integrated circuits; static voltage regulators; LED display screens; plasma display panel; electronic displays, namely, digital signage; tripods for cameras; printers; interactive touch screens, LED lighting panel control boards, lighting ballasts, DC Adapters, voltage stabilizers, voltage regulators, AC adapters, signal splitters for electronic apparatus; image sensors; UV Sensors; optical switches; light meters; color sensors; battery chargers; cell phone chargers; USB chargers for mobile cellular devices; solar mobile chargers for electronic apparatus, namely, computers and portable handheld devices; scanners."

The red-lined amendment appears as follows:

> Headphones; headsets for mobile telephones; cases for mobile phones; ~~cellular phones~~; earphones; ~~amplifiers; memory cards; television sets; digital cameras; laser equipment for non-medical purposes; laser pointers~~; personal stereos; FM transmitters; ~~AM transmitters~~; portable radios; ~~turntables, namely, record players~~; audio speakers; ~~printers; scanners~~; wireless audio speakers; computer speakers; ~~personal computers; keyboards~~; portable audio speakers; wireless loud speakers; ~~LED touch screens; LCD computer screens; audio converters; extension cables; audio cables; video cables; control signal cables; audio adapters; video adapters; network routers~~; micro secure digital (SD) memory cards; ~~USB cables; microchips; electronic components for computers; batteries; electronic circuits; circuit boards; electronic chips for the manufacturer of integrated circuits; programmable logic controller; signal processors; integrated circuits; static voltage regulators; LED display screens; plasma display panel; electronic displays, namely, digital signage~~; microphones; ~~tripods for cameras; printers; interactive touch screens, LED lighting panel~~

~~control boards, lighting ballasts, DC Adapters, voltage stabilizers, voltage regulators, AC adapters, signal splitters for electronic apparatus; image sensors; UV Sensors; optical switches; light meters; color sensors; battery chargers; cell phone chargers; USB chargers for mobile cellular devices; solar mobile chargers for electronic apparatus, namely, computers and portable handheld devices~~; universal chargers for electronic apparatus, namely, computers and portable handheld devices; ~~scanners~~.

The final, amended identification of goods appears as follows:

> Headphones; headsets for mobile telephones; cases for mobile phones; earphones; personal stereos; FM transmitters; portable radios; audio speakers; wireless audio speakers; computer speakers; portable audio speakers; wireless loud speakers; micro secure digital (SD) memory cards; microphones; universal chargers for electronic apparatus, namely, computers and portable handheld devices.

This amendment will avoid any risk of likelihood of confusion with Opposer's mark as narrows the scope of Applicant's goods, which vary from Opposer's goods to such a significant degree that there is no risk of a likelihood of confusion as to the source or sponsorship of the goods or services because of the marks used thereon. *See, e.g., Paula Payne Prods. Co. v. Johnson's Publ'g Co.*, 473 F.2d 901, 902, 177 USPQ 76, 77 (C.C.P.A. 1973). Additionally, Applicant's and Opposer's goods are offered and sold in dissimilar trade channels to different types of consumers. *See, e.g., In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361-63, 177 USPQ 563, 568-69 (C.C.P.A. 1973).

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WHEREFORE, Applicant prays that:

(a) Judgment be entered in favor of Applicant, Axtron Global, LLC; and

(b) Opposition No. 91216061 be dismissed with prejudice; and

(c) Applicant's application Serial No. 86063642 moves forward to registration.

Respectfully submitted,

Dated: August 29, 2014

GONZALEZ SAGGIO & HARLAN, LLP

By:

Kristin L. Petersen
Attorneys for Applicant Axtron Global, LLC
2 North Lake Avenue, Suite 930
Pasadena, California 91101
(626)440-0022

CERTIFICATE OF SERVICE

Applicant Axtron Global LLC, by and through its attorneys, hereby certifies that a copy of this **ANSWER TO NOTICE OF OPPOSITION** has been served upon Opposer RGB Systems, Incorporated on this 29th day of August, 2014, by First Class Mail at the following address:

John C. Holman, Robert S. Pierce Jacobson Holman PLLC 400 7th St., NW Washington, DC 20004	*ATTORNEYS FOR OPPOSER* RGB Systems, Incorporated

Dated: August 29, 2014

GONZALEZ SAGGIO & HARLAN, LLP

By: _____

Kristin L. Petersen
Attorneys for Applicant
2 North Lake Avenue, Suite 930
Pasadena, California 91101
(626)440-0022