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

Proceeding	91217321
Party	Defendant Fugro N.V.
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Date	02/15/2015
Attachments	Fugro N V Answer and Affirmative Defenses to Notice of Opposition SEA-STAR(16604440_1).pdf(17413 bytes )

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

Marine Acquisition Corp. :  
Petitioner, : Opposition No. 91217321  
vs. : Application No. 79/115255  
Fugro N.V., : Mark: SEASTAR  
Applicant. :  
\_\_\_\_\_/

**ANSWER AND AFFIRMATIVE DEFENSES  
TO NOTICE OF OPPOSITION**

Applicant Fugro N.V., through its attorneys Honigman Miller Schwartz and Cohn LLP, for its Answer to the Notice of Opposition (“Notice”) filed by Petitioner Marine Acquisition Corp., states as follows:

1. Applicant states that it has insufficient information with which to admit or deny the allegations and, therefore, leaves Opposer to its proofs.
2. Applicant states that it has insufficient information with which to admit or deny the allegations and, therefore, leaves Opposer to its proofs.
3. Applicant states that it has insufficient information with which to admit or deny the allegations and, therefore, leaves Opposer to its proofs.
4. Admitted, in part, in so far as according to records of the U.S. Patent and Trademark Office, reflect that Opposer is listed as the owner of U.S. Trademark Registration No. 1,382,900 (“the ‘900 registration”) is registered for hydraulic fluid in

International Class 001; gauges and instruments for boats, namely, tachometers and oil pressure gauges, in International Class 009; and hydraulic steering units for boats and components thereof - namely, helm pumps, linear actuating cylinders, trim tabs, stern-drive cylinders and outboard cylinders, in International Class 012 claiming a first use date of January 1984 and a first use in commerce date of January 1984 and that according to records of the U.S. Patent and Trademark Office, that the Section 8 and the Section 9 were accepted June 24, 2006. Further answering, Applicant states that it has insufficient information with which to admit or deny Opposer's allegations concerning (a) use of Opposer's mark, or (b) whether the '900 registration is incontestable, and, therefore, leaves Opposer to its proofs.

5. Admitted.

6. Admitted.

7. Applicant states that it has insufficient information with which to admit or deny the allegations and, therefore, leaves Opposer to its proofs.

8. Applicant states that it has insufficient information with which to admit or deny the allegations and, therefore, leaves Opposer to its proofs.

9. Denied as untrue.

10. Admitted.

11. Denied as true.

12. Applicant states that it has insufficient information with which to admit or deny the allegations and, therefore, leaves Opposer to its proofs.

13. Denied as untrue.

14. Denied as untrue.

## **COUNT I – LIKELIHOOD OF CONFUSION**

15. The answers of paragraphs 1-14 are incorporated herein.

16. Applicant, admits in part that the ‘255 application for the mark SEASTAR is identical in appearance and sound to the ‘900 registration. Further answering, Applicant states that it has insufficient information with which to admit or deny Opposer’s allegations concerning (a) connotation or (b) commercial impression of Opposer’s ‘900 registration and therefore, leaves Opposer to its proofs. Further answering, Applicant denies the remaining allegations in Paragraph 16 as untrue.

17. Applicant states that it has insufficient information with which to admit or deny Opposer’s allegations concerning (a) the goods and services with which Opposer has used Opposer’s mark or (b) whether or not Opposer has acquired trademark rights in the mark SEASTAR and therefore, leaves Opposer to its proofs. Further answering, Applicant denies the remaining allegations in Paragraph 17 as untrue.

18. Applicant admits that there are no restrictions on the channels of trade in the ‘255 application. Applicant states that it has insufficient information with which to admit or deny Opposer’s allegations concerning channels of trade in which Opposer offers its goods. Further answering, Applicant denies the remaining allegations in Paragraph 19 as untrue

19. Denied as untrue.

## **COUNT II – DILUTION**

20. The answers of paragraphs 1-14 are incorporated herein.

21. Applicant states that it has insufficient information with which to admit or deny

the allegations and, therefore, leaves Opposer to its proofs.

22. Denied as untrue

23. Applicant states that it has insufficient information with which to admit or deny the allegations and, therefore, leaves Opposer to its proofs.

24. Applicant, states that the mark SEASTAR is visually and phonetically the same as Opposer's SEASTAR mark. Further answering, Applicant states that it has insufficient information with which to admit or deny Opposer's allegations regarding commercial impression of Opposer's and therefore, leaves Opposer to its proofs. Further answering, Applicant denies the remaining allegations in Paragraph 24 as untrue.

25. Denied as untrue.

26. Denied as untrue.

### **AFFIRMATIVE DEFENSES**

Applicant sets forth below its affirmative defenses. By setting forth these defenses, Applicant does not assume the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Petitioner. Moreover, nothing stated herein is intended or shall be construed as an acknowledgement that any particular issue or subject matter is relevant to Petitioner's allegations.

1. The Petition fails to state a claim upon which relief may be granted.
2. Petitioner's claims are barred by waiver, estoppel, laches, and/or acquiescence.
3. Applicant is the owner of U.S Registration No. 2,437,930 for the mark FUGRO

SEASTAR for nautical apparatus, namely, receivers for receiving and processing data from global positioning satellites and shore-based navigation stations, transmitters for sending and relaying navigational information from global positioning satellites and shore-based navigation stations in International Class 009; and navigational services, namely, providing navigational information for use in ship piloting, providing global positioning and navigation information via radio, radar and satellite in International Class 39 registered on March 27, 2001 with a filing date of November 5, 1998 and a priority date of July 24, 1998.

4. Opposer does not have any prior rights in any trademark that is confusingly similar with the mark and goods for which Applicant seeks registration.

5. Applicant's goods are not sufficiently related to Petitioner's goods to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Petitioner, or as to origin, sponsorship, or approval of Applicant's goods by Petitioner.

6. Any mark owned by Opposer is not famous.

7. There is no false suggestion of a connection, and no likelihood of dilution of any mark owned by Petitioner, caused by Applicant's use or registration of the SEASTAR mark.

8. Petitioner has unclean hands and is engaging in trademark misuse.

9. Applicant reserves the right to assert additional Affirmative Defenses as this case progresses.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed in its entirety with prejudice and that the relief requested by Petitioner be denied.

Dated: February 15, 2015

Honigman Miller Schwartz and Cohn LLP

*/Jennifer Sheehan Anderson/*

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE FOR OPPOSITION was served on Petitioner as identified by the records of the U.S. Patent and Trademark Office, this 15<sup>th</sup> day of February 2015, by sending same via First Class mail, postage prepaid, to:

Joseph W. Berenato, III  
Berenato & White, LLC  
6550 Rock Spring Drive, Suite 240  
Bethesda, MD 20817

*/Jennifer Sheehan Anderson/*  
Jennifer Sheehan Anderson

**CERTIFICATE OF FILING**

I, Jennifer Sheehan Anderson, do certify that on February 15, 2015, I filed via electronic means (ESTTA) the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF PETITION with the:

U.S. Patent and Trademark Office  
Trademark Trial and Appeal Board

By: */Jennifer Sheehan Anderson/*