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

Proceeding	91220153
Party	Defendant Hanwha Corporation
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Date	02/12/2015
Attachments	Answer.pdf(16381 bytes )

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

In the Matter of Application:  
Serial No.: 85/348,134  
Filed: June 16, 2011  
Mark: HANWHA and Design  
Published: September 16, 2014

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INVISTA NORTH AMERICA S.A.R.L.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91220153
v.	)	
	)	
HANWHA CORPORATION,	)	
	)	
Applicant.	)	

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**ANSWER AND AFFIRMATIVE DEFENSES OF  
APPLICANT HANWHA CORPORATION**

For its Answer to the Notice of Opposition (“Notice”) filed by INVISTA North America S.A.R.L. (“Opposer”), Hanwha Corporation (“Applicant”) responds as follows:

In regard to the first, unnumbered paragraph of the Notice, Applicant denies that Opposer will be damaged by the registration of the mark set forth in Applicant’s U.S. Application Serial No. 85/348,134 (“Applicant’s Mark”), admits that Applicant’s Mark is depicted in the middle of the first paragraph of the Notice, and admits that the Notice purports to assert a claim pursuant to Section 13 of the Lanham Act, 15 U.S.C. § 1063. Except as so denied and admitted, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in that paragraph and therefore denies them.

Applicant responds to the numbered paragraphs of Opposer’s Notice as set forth below. Applicant denies each and every allegation by Opposer not expressly admitted herein.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 and therefore denies them.

2. To the extent paragraph 2 contains Opposer's legal conclusions, no response is required. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations of paragraph 2 and therefore denies them.

3. To the extent paragraph 3 contains Opposer's legal conclusions, no response is required. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations of paragraph 3 and therefore denies them.

4. Applicant admits that the online database of the U.S. Patent and Trademark Office appears to identify Opposer as the owner of U.S. Trademark Reg. Nos. 3,316,569, 2,982,176, 3,086,236, 2,979,738, 3,197,264, 3,133,786, 3,088,413, and 3,335,878, which appear to have been registered on the dates identified in paragraph 4 of the Notice for the marks and goods and services identified in that paragraph. Except as so admitted, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 and therefore denies them.

5. To the extent paragraph 5 contains Opposer's legal conclusions, no response is required. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations of paragraph 5 and therefore denies them.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 and therefore denies them.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 and therefore denies them.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 and therefore denies them.

9. Applicant admits that printouts purporting to reflect use of an INVISTA and design mark, as depicted in paragraph 3 of Opposer's Notice of Opposition, are attached as Exhibit 1 to the Notice. Applicant denies that printouts purporting to reflect use of a design mark by itself, as depicted in paragraph 2 of Opposer's Notice of Opposition, are attached as Exhibit 1 to the Notice. Except as so admitted and denied, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 and therefore denies them.

10. Applicant admits that printouts purporting to reflect use of an INVISTA and design mark, as depicted in paragraph 3 of Opposer's Notice of Opposition, are attached as Exhibit 2 to the Notice. Applicant denies that printouts purporting to reflect use of a design mark by itself, as depicted in paragraph 2 of Opposer's Notice of Opposition, are attached as Exhibit 2 to the Notice. Except as so admitted and denied, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 and therefore denies them.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 and therefore denies them.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 and therefore denies them.

13. Applicant denies the allegations of paragraph 13.

14. Applicant admits the allegations of paragraph 14.

15. Applicant admits the allegations of paragraph 15.

16. Applicant admits that the Notice purports to oppose registration of Applicant's Mark only in connection with the identified services in Class 42.

17. Applicant denies that the Application presently is based on an intent to use under Section 1(b) of the Lanham Act, but admits the remainder of the allegations of paragraph 17.

18. Applicant admits the allegations of paragraph 18.

19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 and therefore denies them.

20. Applicant denies the allegations of paragraph 20.

21. Applicant denies the allegations of paragraph 21.

22. Applicant is without knowledge or information sufficient to form a belief as to the truth of whether Opposer “sells products and services under Opposer’s Marks to Applicant’s competitors,” or whether “Opposer became aware that Applicant was using Applicant’s Mark at trade shows in the United States that Opposer also attended,” and therefore denies those statements. Applicant denies the remainder of the allegations of paragraph 22.

23. Applicant denies the allegations of paragraph 23.

24. Applicant denies the allegations of paragraph 24.

25. The statement in paragraph 25 is not an allegation of fact to which a response is required.

26. The statement in paragraph 26 is not an allegation of fact to which a response is required.

27. Applicant denies that the opposition should be sustained or that Opposer is entitled to any of the relief it seeks in its Notice, or any relief whatsoever.

#### **AFFIRMATIVE DEFENSES**

Subject to the responses above, and without assuming any burden other than that imposed by operation of law, Applicant alleges and asserts the following affirmative defenses in response to the allegations of Opposer’s Notice. In addition to the defenses described below, and subject

to its responses above, Applicant reserves the right to modify, amend and/or expand upon these defenses as discovery proceeds, and to allege additional defenses that become known through the course of discovery.

1. Opposer's Notice fails to state a claim upon which relief may be granted.
2. Opposer will suffer no harm from registration of Applicant's Mark.
3. There is no likelihood of confusion, mistake or deception between Applicant's Mark and Opposer's Marks identified in Paragraph 4 of the Notice in view of several of the factors identified in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), including without limitation because of differences in appearance and commercial impression in the parties' respective marks – including Opposer's use of the INVISTA word mark as the dominant portion of all of Opposer's Marks except U.S. Reg. No. 3,316,569 – and because there is no meaningful overlap between the parties' respective goods and services, relevant consumers, or channels of trade.
4. Opposer is barred by the doctrine of waiver, estoppel and/or laches.

Respectfully submitted by,

Dated: February 12, 2015

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_____	)	

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of February, 2015, a true and correct copy of the foregoing Answer and Affirmative Defenses was served on Opposer’s counsel by first class mail, postage prepaid, addressed as follows:

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/Nicole Mollica/  
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