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

Proceeding	91234284
Party	Defendant Skypanels, Inc
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 87142121
Filed: August 17, 2016
For the Mark: SKYPANELS
Opposition Filed: May 1, 2017

Arnold & Richter Cine Technik)
GmbH & Co. Betriebs KG)
A Foreign limited liability)
partnership in Germany,)
)
Opposer,)
)
v.)
)
Skypanels, Inc.)
A California Corporation)
)
Applicant.)
)

Opposition No. 91234284

ANSWER AND AFFIRMATIVE DEFENSES TO OPPOSITION

Applicant Skypanels, Inc., through its attorneys, responds to the allegations set forth in the Opposition (the "Opposition") pursuant to Fed. R. Civ. P. 8(b).

Answering the preamble of the Opposition, Applicant Skypanels, Inc., ("Applicant" or "Skypanels") admits that Arnold & Richter Cine Technik GmbH & Co. Betriebs KG ("Opposer") petitioned to oppose U.S. TM Application Serial No. 87142121 ("the '121 application"), but denies that there is any basis in fact or law to do so. Applicant otherwise denies knowledge or

information sufficient to form a belief as to the truth of the remaining allegations of the preamble, and on that basis denies them.

1. Applicant lacks knowledge and/or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Opposition, and on that basis denies them.
2. Applicant lacks knowledge and/or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Opposition, and on that basis denies them.
3. Applicant admits that USPTO records indicate that Applicant has submitted trademark application serial number 87142121 (the "Application") for the "SKYPANELS" mark registration as defined, outlined and listed in paragraph 3 of the Opposition. Applicant otherwise denies the allegations of Paragraph 3.
4. Applicant admits that USPTO records indicate that the USPTO has refused Opposer's Application Number 79177608 for "SKYPANEL" under section 2(d) of the Trademark Act based on the cited registration number 4582063 for the "SKYPANELS" mark of Applicant (among other reasons).
5. Applicant admits that USPTO records indicate that Opposer has filed a petition to cancel Applicant's registration number 4582063 for the "SKYPANELS" mark which is pending before the Trademark Trial and Appeal Board.
6. Applicant admits that it filed a second application to register the mark SKYPANELS on the principal register as fully indicated in paragraph 6 of the Opposition.
7. Applicant denies the whole of Paragraph 8, and indeed is using the applied-for mark "SKYPANELS" in commerce on all the goods covered by Applicant's Application.

8. Applicant denies the whole of Paragraph 9, specifically the allegation in the request of Opposer to partially cancel or restrict the goods as set forth in Skypanels' Application to the alleged "actual goods" used in commerce by Applicant listed by Opposer, and further alleges that Opposer's goods as listed in their rejected application would still conflict with Applicant's Application and registered trademark, in its current and/or revised form(s).
9. Applicant denies paragraph 10, specifically denying that the requested restriction or modification of Applicant's Application would avoid a continued finding by the USPTO that there is a likelihood of confusion between Opposer's mark and Applicant's mark(s).
10. Applicant denies the whole of Paragraph 12, specifically the allegation that Applicant's mark is descriptive.
11. Applicant denies the truth of the allegations contained in Paragraph 13 of the Opposition.
12. Applicant denies the truth of the allegations contained in Paragraph 14 of the Opposition.

AFFIRMATIVE DEFENSES

Applicant asserts the following defenses to the Opposition. By alleging the defenses set forth, Applicant does not assert or admit that it has the burden of proof and/or persuasion with respect to any of these defenses. Applicant reserves the right to assert additional affirmative defenses in the event that discovery or further analysis reveal presently unknown or unstated affirmative defenses.

First Affirmative Defense

The Opposition fails, in whole or in part, to state a claim upon which relief may be granted.

Second Affirmative Defense

Opposer lacks standing to oppose the '121 application.

Third Affirmative Defense

Opposer is barred by the doctrine of unclean hands.

Fourth Affirmative Defense

Opposer's claims are barred under the doctrines of estoppel, waiver, acquiescence and laches.

Fifth Affirmative Defense

Applicant's mark is likely to be infringed by Opposer's marks since the marks are identical and the goods, the consumers, and the channels of trade also overlap; and upon information and belief, ordinary prospective purchasers of Applicant's products will associate Applicant's and Opposer's marks and be confused.

Sixth Affirmative Defense

Applicant reserves the right to supplement its defenses and assert additional defenses following further investigation of the matter.

CONCLUSION

For at least the reasons outlined above, Applicant requests that this Opposition be denied and dismissed promptly, with prejudice, to insure that Applicant is afforded its rights under the Trademark laws and that the Application not be disturbed.

Respectfully submitted,

Date: June 7, 2017



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PROOF OF SERVICE

**STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

I hereby certify that a true and complete copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO OPPOSITION has been served on:

William C. Wright
60 East 42nd Street, Suite 2520
New York, NY 10165

by mailing said copy on June 7, 2017:

I am a citizen of the United States, over the age of 18 and not a party to this action. I am a resident of or employed in the county where the mailing occurred; my business address is:
6320 Canoga Ave. Suite 1547, Woodland Hills, CA 91367


(By U.S. Mail) I deposited a true copy thereof in a sealed envelope in the mail at
Woodland Hills, California

with postage thereon fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal Opposition date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(By Personal Service) I caused such envelope to be delivered by hand via messenger service to the address above;

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 6/7/17


Name: Sevag Demirjian