

ESTTA Tracking number: **ESTTA1196553**

Filing date: **03/14/2022**

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

| | |
|------------------------|--|
| Proceeding no. | 91234747 |
| Party | Defendant PAFtec Technologies Pty Ltd |
| Correspondence address | FREDERICK W MEYERS IP SOLVED LLC 53 WEST JACKSON BLVD SUITE 950 CHICAGO, IL 60604 UNITED STATES Primary email: fredwmeyers@ipsolved.com Secondary email(s): tm@ipsolved.com, chicago.officialmail@ipsolved.com, tgardiner@gkwwlaw.com, hjaka@gkwwlaw.com 312-898-8377 |
| Submission | Answer |
| Filer's name | Frederick W Meyers |
| Filer's email | fredwmeyers@ipsolved.com, tm@ipsolved.com, chicago.officialmail@ipsolved.com, tgardiner@gkwwlaw.com, hjaka@gkwwlaw.com |
| Signature | /Frederick W Meyers/ |
| Date | 03/14/2022 |
| Attachments | Drayson v. Paftec Amended Answer to notice of opposition.pdf(154794 bytes) |

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

DRAYSON TECHNOLOGIES (EUROPE)
LIMITED,

Opposer,

v.

PAFTEC TECHNOLOGIES PTY LTD,

Applicant.

Opposition No. 91234747 (Parent case)
Cancellation No.: 92066758

DKT. NO. 091938.000047

APPLICANT'S AMENDED ANSWER TO OPPOSER'S NOTICE OF OPPOSITION

Applicant hereby answers the allegations contained in the Notice of Opposition filed by Opposer as follows:

Mark(s) Cited by Opposer as Basis for Opposition:

Applicant asserts that none of the marks depicted in the application(s) cited by Petitioner are similar in appearance, pronunciation, or connotation to CleanSpace. Further, the goods/services claimed in said application(s) are not identical or related to those associated with Applicant's application.

Opposer's business and CleanSpace Mark:

1. Applicant lacks sufficient knowledge or information concerning such allegations and therefore denies the same.
2. To the extent that this allegation is supported by the records of the EUIPO, Applicant admits.
3. To the extent that this allegation is supported by WIPO records, Applicant admits.
4. To the extent that this allegation is supported by the records of the USPTO, Applicant admits.
5. To the extent that this allegation is supported by the veracity of the filing(s) and the records of the USPTO, Applicant admits.

Applicant's CleanSpace Mark:

6. To the extent that this allegation is supported by the records of the USPTO, Applicant admits.
7. Applicant admits that according to the records of the USPTO, priority filing date for Opposer's '572 Application is earlier than the filing date for Applicant's '065 Application.
8. Denied.
9. Denied.
10. Denied.
11. Denied.
12. Denied.

Count I – Likelihood of Confusion – Section 2(d) of the Lanham Act.

13. Applicant incorporates by reference their responses in Paragraphs 1 through 12 as if fully set forth herein.
14. To the extent that the allegation as to respective filing dates is supported by the veracity of the filing(s) and the records of the USPTO, Applicant admits that these dates are so supported. Applicant denies the remainder of this allegation.
15. Denied.
16. Denied. Further, the Opposer's '572 application, was limited by the USPTO on February 17, 2022 as a result of a decision before the EUIPO Boards of Appeal on July 7, 2021. The opposer's current goods and services in Class 009 do not contain identical or similar goods and services.
17. Denied.

Count II – Lack of Bona Fide Intention to Use the Mark in Commerce

18. Applicant incorporates by reference their responses to Paragraphs 1 through 17 as if fully set forth herein.
19. Applicant admits as to the requirements of Section 66(a) of the Lanham Act.
20. Denied.
21. Denied.

22. Denied.

AMPLIFICATION OF DENIAL

23. Applicant denies each and every allegation of the Notice of Opposition not specifically admitted herein.¹

FIRST DEFENSE

24. Applicant asserts that the Opposer is barred from the opposition on the basis of equitable estoppel.

25. As noted above, the '572 application and the '065 application no longer share similar goods and Applicant is relying upon the limitation of goods by the USPTO on February 17, 2022, implementing a EUIPO Boards of Appeal decision from July of 2021.

26. Opposer has not challenged either the EUIPO Boards of Appeal decision or the USPTO limitation to the best of the Applicant's knowledge.

27. Applicant is relying on Opposer's inaction to evaluate its cost and strategy to continue the proceeding.

28. If this proceeding were to continue, it would drastically increase Applicant's costs and prejudice them substantially.

WHEREFORE, Applicant prays that this opposition be dismissed and that the '065 Application be allowed to proceed to registration.

Dated this 14th day of March 2022.

Respectfully submitted,

¹ In determining that the above referenced cases should be consolidated, the Board ruled that this amplification should not be struck and categorized it as an amplification of denials rather than an affirmative defense. 37 TTABVUE 8.

/Frederick W. Meyers/

IPSolved, LLC

53 W. Jackson Blvd., Suite 950

Chicago, IL 60604

(708) 829-2979

Attorneys for Applicant

CERTIFICATE OF FILING AND OF SERVICE

I hereby certify that on March 14, 2022, a true and correct copy of the foregoing APPLICANT'S AMENDED ANSWER TO OPPOSER'S NOTICE OF OPPOSITION has been filed electronically using ESTTA, and served via electronic mail to Petitioner's counsel at rhorowitz@bakerlaw.com, jcupito@bakerlaw.com, bhipdocket@bakerlaw.com, nydocketing@bakerlaw.com, lgrossberg@bakerlaw.com.

/Hamza Jaka/

Hamza Jaka