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

Proceeding no.	91268606
Party	Defendant Low Temp Industries, Inc.
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Date	04/20/2022
Attachments	2022.04.20 - LTI Answer and Counterclaims.pdf(143099 bytes)

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

In the Matter of Application Serial No.: 88/905,749

Mark: SPECLINE

Filing Date: May 7, 2020

Publication Date: March 16, 2021

THE DELFIELD COMPANY, LLC,

Opposer,

v.

LOW TEMP INDUSTRIES, INC.,

Applicant.

Opposition No. 91268606

ANSWER

Applicant Low Temp Industries, Inc. (“LTI”), by its attorneys, hereby answers the Notice of Opposition (the “Opposition”) filed by The Delfield Company (“Opposer”). Except as otherwise expressly admitted, LTI denies each and every allegation contained in the Notice of Opposition.

LTI denies that Opposer will be damaged by registration of the SPECLINE Mark shown in Application Serial No. 88/905,749. LTI otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the unnumbered paragraph on Page 1 of the Opposition and therefore denies those allegations.

1. LTI admits that United States Patent and Trademark Office records list Opposer as the owner of U.S. Reg. No. 1,639,355 for the mark SPECIFICATION LINE for use in connection with “refrigerators and freezers” in International Class 11. LTI denies the remaining allegations in Paragraph 1.

2. LTI denies the allegations in Paragraph 2.

3. LTI lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 and therefore denies those allegations.

4. LTI denies that customers, prospective purchasers, and the general public associate the SPECIFICATION LINE mark with Opposer and that customers, prospective purchasers, and the general public expect goods offered under the purported SPECIFICATION LINE mark to have a connection or association with Opposer. LTI otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4 and therefore denies those allegations.

5. LTI denies the allegations in Paragraph 5.

6. LTI denies the allegations in Paragraph 6.

7. LTI admits that it filed Application Serial No. 88/905,749 on a Section 1(a) basis and that LTI alleged a first use date of February 7, 2019.

8. LTI admits the allegations in Paragraph 8.

9. Paragraph 9 does not contain any allegations, and thus, no response is required. To the extent Paragraph 9 attempts to incorporate the allegations in Paragraphs 1 through 8, LTI similarly incorporates its responses to those same Paragraphs.

10. LTI lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 and therefore denies those allegations.

11. LTI denies the allegations in Paragraph 11.

12. LTI denies the allegations in Paragraph 12.

13. LTI denies the allegations in Paragraph 13.

14. LTI denies the allegations in Paragraph 14.

15. LTI lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 regarding what “Opposer believes” and therefore denies those allegations. LTI further denies that Opposer would be damaged by the registration of the purported SPECIFICATION LINE mark and denies that Application Serial No. 88/905,749 should be denied registration.

LTI’S AFFIRMATIVE DEFENSES

LTI asserts that the following affirmative defenses bar Opposer’s requested relief in its Notice of Opposition.

First Defense

The Notice of Opposition fails to state a claim against LTI upon which relief may be granted.

Second Defense

Opposer’s claims are barred because there is no likelihood of confusion under 15 U.S.C. §1052(d).

Third Defense

Opposer’s mark is generic and not capable of serving a source-identifying function and not capable of functioning as a trademark

RESERVATION OF RIGHTS

LTI reserves the right to rely on all affirmative defenses and counterclaims that may become available or appear through discovery in this proceeding, and LTI reserves the right to amend its Answer for the purposes of asserting such affirmative defenses and to assert any such counterclaims.

WHEREFORE, LTI respectfully asks the Board to deny Opposer's claims in the Notice of Opposition and that registration of Application Serial No. 88/905,749 be granted, as well as such other and further relief as may be just and proper.

Dated: April 20, 2022

Respectfully submitted,

/Jennifer Fairbairn Deal/

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CERTIFICATE OF TRANSMITTAL

I hereby certify that a true and correct copy of the foregoing **ANSWER** is being filed electronically with the TTAB via ESTTA on April 20, 2022.

/Jennifer Fairbairn Deal/
KILPATRICK TOWNSEND & STOCKTON LLP

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2022, I served the foregoing **ANSWER** upon Opposer The Delfield Company, LLC by sending a copy via electronic mail to Applicant's attorney:

/Jennifer Fairbairn Deal/
KILPATRICK TOWNSEND & STOCKTON LLP