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11-24-2003
 U.S. Patent & TMO/TM Mail Rcpt. Dt. #40

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

In the matter of the Petition to Cancel: Registration No. 1,460,651
 Date of Registration: October 13, 1987
 Mark: TRADESMAN TOOL CO.

In the matter of the Counterclaim Petition to Cancel: Registration No. 2,205,373
 Date of Registration: November 24, 1998
 Mark: TRADESMAN

Power Tool Specialists, Inc.,)	
)	
Petitioner – Counterclaim Respondent)	
)	
v.)	Cancellation No. 92041398
)	
Robert J. Ganassa,)	
)	
Respondent – Counterclaim-Petitioner.)	

BOX TTAB / NO FEE
 Commissioner for Trademarks
 2900 Crystal Drive
 Arlington, VA 22202-3513

**POWER TOOL SPECIALISTS, INC.'S SHOWING WHY JUDGMENT BY DEFAULT
 SHOULD NOT BE ENTERED AGAINST IT IN CONNECTION WITH THE
 COUNTERCLAIM PETITION TO CANCEL**

In response to the Notice mailed October 24, 2003, Petitioner and Counterclaim-
 Respondent, Power Tool Specialists, Inc., hereby shows good cause why judgment by default

should not be entered against it due to its failure to timely file an Answer to the Counterclaim Petition to Cancel U.S. Registration No. 2,205,373.

Power Tool Specialists, Inc.'s Answer to the Counterclaim Petition to Cancel is being filed herewith.

It is respectfully submitted that the delay in filing the Answer was not the result of willful conduct or gross neglect on the part of Counterclaim Respondent. Rather, the delay was due to inadvertence and a docketing error on the part of Counterclaim Respondent's counsel. The TRADESMAN mark is a highly valuable mark of Counterclaim Respondent. As set forth in the Petition to Cancel, Power Tool Specialists, Inc. has been manufacturing and marketing in the United States since 1987 at wide variety of power tools and related products under the TRADESMAN mark. In doing so, Power Tool Specialists, Inc. has spent substantial sums in commercializing and otherwise promoting its TRADESMAN mark and products throughout the United States. Products sold by Power Tool Specialists, Inc. under the TRADESMAN mark are illustrated on its web site at WWW.TRADESMAN-REXON.COM. Accordingly, in light of the highly valuable nature of the TRADESMAN mark, and Power Tool Specialists, Inc.'s continuous and widespread usage of the mark, it is respectfully submitted that the delay in filing an Answer to the Counterclaim Petition to Cancel clearly was the result of an innocent error, and in no way was the result of willful conduct or gross neglect.

In addition, it is respectfully submitted that Counterclaim Petitioner will not be substantially prejudiced by the delay in filing the Answer to the Counterclaim Petition to Cancel. Neither party has conducted discovery in this matter, and Power Tool Specialists, Inc. will not object to resetting the discovery and other pretrial deadlines in order to provide both parties with adequate time to conduct discovery and otherwise prepare for trial.

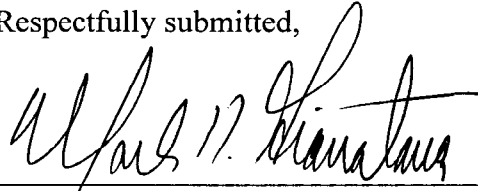
Lastly, as reflected in the Answer filed herewith, Power Tool Specialists, Inc. has a meritorious defense to the Counterclaim Petition to Cancel. Further, as indicated above, Power Tool Specialists, Inc. has been, and continues to use the TRADESMAN mark of U.S. Registration No. 2,205,373 since 1987, and therefore intends to vigorously defend the mark against the Petition to Cancel on several meritorious grounds.

Accordingly, it is respectfully submitted that Counterclaim Respondent Power Tool Specialists, Inc. has demonstrated good cause why default judgment should not be entered against it in connection with the Counterclaim Petition to Cancel. Specifically, Power Tool Specialists, Inc. has demonstrated (1) that the delay in filing the Answer herewith was not the result of willful conduct or gross neglect on the part of Counterclaim Respondent; (2) that the Counterclaim Petitioner will not be substantially prejudiced by the delay; and (3) that Counterclaim Respondent has meritorious defenses to the Counterclaim Petition to Cancel.

As indicated above, the TRADESMAN mark is a highly valuable mark in wide use by Counterclaim Respondent throughout the United States. As set forth at TBMP § 312.02, the policy of the law, and of the Board in exercising its discretion under the law, is to decide cases on their merits. In addition, any doubt in a matter like this should be resolved in the favor of the Counterclaim Respondent. Id. It is therefore respectfully requested that the Board not enter default judgment, but rather allow this matter involving the highly-valuable TRADESMAN mark to be decided on the merits.

WHEREFORE, Counterclaim Respondent, Power Tool Specialists, Inc., respectfully requests that the Trademark Trial and Appeal Board set aside the notice of default and correspondingly reset the closing date for discovery and pretrial dates to allow sufficient time for both parties to conduct discovery and otherwise prepare for the trial of this matter.

Respectfully submitted,



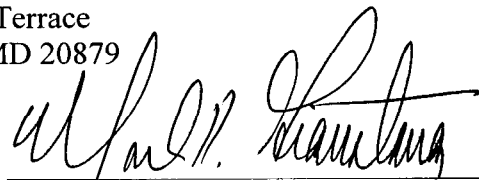
Date: November 24, 2003

Mark D. Giarratana
McCarter & English
CityPlace I
185 Asylum Street
Hartford, Connecticut 06103-3495
Phone: 860-275-6719
Facsimile: 860-560-5919

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing POWER TOOL SPECIALISTS, INC.'S SHOWING WHY JUDGMENT BY DEFAULT SHOULD NOT BE ENTERED AGAINST IT IN CONNECTION WITH THE COUNTERCLAIM PETITION TO CANCEL was sent via first class mail, postage pre-paid on this 24th day of November, 2003 to the following counsel for Respondent and Counterclaim-Petitioner:

Paul W. Koda, Esq.
Koda Law Firm
7521 Filbert Terrace
Gaithersburg, MD 20879



Mark D. Giarratana

HARTFORD: 603607.01

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**POWER TOOL SPECIALISTS, INC.'S ANSWER TO ROBERT J. GANASSA'S
COUNTERCLAIM PETITION TO CANCEL**

Petitioner and Counterclaim-Respondent, Power Tool Specialists, Inc.

("Counterclaim-Respondent") hereby answers the Counterclaim Petition To Cancel in

connection with the above-referenced matter. With respect to the grounds for the cancellation, Counterclaim-Respondent responds as follows:

1. With respect to paragraph 18 of the Counterclaim Petition to Cancel, Counterclaim-Respondent is without sufficient knowledge or information to form a belief as to whether Tradesman Tool Co., Inc. is the current owner of U.S. Trademark Registration No. 1,460,651, and therefore denies same. Counterclaim-Respondent admits that U.S. Trademark Registration No. 1,460,551 for the mark TRADESMAN TOOL CO. for "hand tools, namely trowels and saws," was registered on the Principal Register on October 13, 1987, and was based on an application filed in the U.S. Patent & Trademark Office on February 20, 1987. Counterclaim-Respondent denies the remaining allegations of paragraph 18.

2. Counterclaim-Respondent denies the allegations of Paragraph 19 of the Counterclaim Petition to Cancel.

AFFIRMATIVE DEFENSES

1. Affirmative Defense

The Counterclaim Petition to Cancel fails to state a claim upon which relief may be granted.

2. Affirmative Defense

There is no likelihood of confusion, mistake or deception of the public between the Counterclaim-Respondent's mark and the pleaded marks of Petitioner and Counterclaim-Respondent.

3. Affirmative Defense

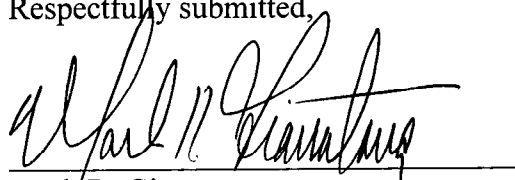
Counterclaim-Petitioner has abandoned the mark TRADESMAN TOOL CO. rendering U.S. Registration No. 1,460,651 void.

4. Affirmative Defense

Counterclaim-Petitioner has unreasonably delayed in asserting his alleged rights and is barred by the doctrines of laches, acquiescence and/or estoppel from pursuing the Counterclaim Petition To Cancel.

WHEREFORE, Counterclaim-Respondent, Power Tool Specialists, Inc. requests that the Trademark Trial and Appeal Board dismiss with prejudice the Counterclaim Petition to Cancel.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Mark D. Giarratana", is written over a horizontal line.

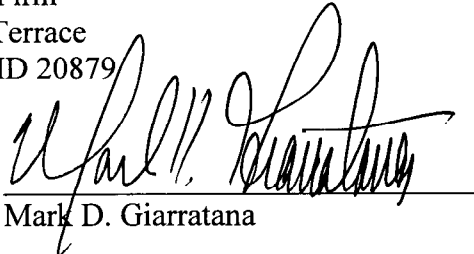
Mark D. Giarratana
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CityPlace I
185 Asylum Street
Hartford, Connecticut 06103-3495
Phone: 860-275-6719
Facsimile: 860-560-5919

Date: November 24, 2003

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **PETITIONER'S ANSWER TO RESPONDENT'S COUNTERCLAIM PETITION TO CANCEL** was sent via first class mail, postage pre-paid on this 24th day of November, 2003 to the following counsel for Respondent and Counterclaim-Petitioner:

Paul W. Koda, Esq.
Koda Law Firm
7521 Filbert Terrace
Gaithersburg, MD 20879



Mark D. Giarratana

HARTFORD: 603606.01