

TTAB



07-13-04

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #78

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

SIMTEC, CO.)		
)		
Plaintiff,)	Cancellation No.:	92/043,438
)		
v.)		
)	Reg. No.:	2,810,331
WAXMAN CONSUMER PRODUCTS)	Mark:	EZ SLIDERS
GROUP INC.)	Reg. Date:	February 3, 2004
)		
Defendant,)		
)		

ANSWER TO PETITION FOR CANCELLATION

Waxman Consumer Products Group Inc. (hereinafter "Defendant"), hereby answers the Petition for Cancellation filed by Simtec, Co. (hereinafter "Plaintiff"), as follows:

1. Defendant denies the allegation set forth in Paragraph 1.
2. Defendant is without knowledge or information sufficient to form a belief as to the veracity of the allegations of Paragraph 2 and, therefore, denies the allegations set forth therein. Moreover, the Defendant specifically denies the false and groundless allegation that use of the registered mark by the Defendant is "a deliberate attempt to confuse the consumer."
3. Defendant is not certain as to what, if any, allegation is being made by the Plaintiff in Paragraph 3 and, therefore, denies the allegations set forth therein.

4. Defendant is without knowledge or information sufficient to form a belief as to the veracity of the allegations of Paragraph 4 and, therefore, denies the allegations set forth therein.

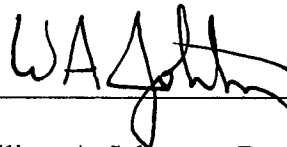
5. Defendant is without knowledge or information sufficient to form a belief as to the veracity of the allegations of Paragraph 5 and, therefore, denies the allegations set forth therein.

AFFIRMATIVE DEFENSES

6. There is no likelihood of confusion, mistake or deception because, *inter alia*, Defendant's mark and the pleaded mark of Plaintiff are not confusingly similar.

Defendant prays that this Cancellation be dismissed in its entirety with prejudice.

Respectfully submitted,



William A. Johnston, Reg. No. 47,687
George L. Pinchak, Reg. No. 37,697

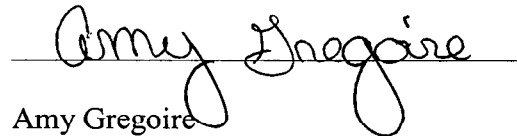
Watts Hoffmann Co., L.P.A.
1100 Superior Avenue, Ste. 1750
Cleveland, OH 44114-2518
Telephone: (216) 241-6700
Facsimile: (216) 241-8151
Email: wjohnston@watthoff.com
gpinchak@wattshoff.com

Attorneys for Defendant
Waxman Consumer Products Group Inc.

CERTIFICATE OF FILING BY EXPRESS MAIL

The undersigned hereby certifies that, pursuant to 37 C.F.R. 1.10, the foregoing Answer to Petition for Cancellation is being deposited, on July 13, 2004 with the United States Postal Service, as Express Mail (No. EV 018501427 US), in an envelope addressed to:

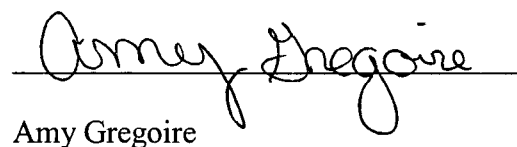
Commissioner for Trademarks
Trademark Trial and Appeal Board
Box TTAB - No Fee
2900 Crystal Drive
Arlington, VA 22202-3513


Amy Gregoire

CERTIFICATE OF SERVICE BY U.S. MAIL

The undersigned hereby certifies that a copy of the foregoing Answer to Petition for Cancellation was mailed by first class U.S. mail on July 13, 2004, postage prepaid, to the following address supplied by the Plaintiff:

Don V. Edwards
President
Simtec, Co.
28 Government Road
Irwin, PA 15642


Amy Gregoire