


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

Kohler Co.,)	Cancellation No. 92045068	
)		
Petitioner,)	Mark: HATTERAS	12-28-2005
)		<small>U.S. Patent & TMO/TM Mail Rpt Ct #11</small>
v.)	Registration No.: 2,799,452	
)		
American Standard International Inc.,)	Filing Date: December 3, 2002	78, 190.589
)		
Registrant.)	Registration Date: December 23, 2003	
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ANSWER AND AFFIRMATIVE DEFENSES

Registrant American Standard International Inc., by its attorneys of record, hereby answers and responds to Petitioner's Petition for Cancellation, as follows:

1. Registrant admits the allegations of paragraph 1 of the Petition for Cancellation.
2. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Petition for Cancellation, and accordingly denies same.
3. Registrant refers to the referenced U.S. Application Serial No. 78/262,314 for its specific terms and language. Otherwise, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Petition for Cancellation, and accordingly denies same.
4. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Petition for Cancellation, and accordingly denies same.
5. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Petition for Cancellation, and accordingly denies same.
6. Registrant denies the allegations of paragraph 6 of the Petition for Cancellation.

7. Registrant admits that it uses the mark HATTERAS in connection with plumbing fittings, including shower heads, bath spouts and hand showers. Otherwise, Registrant denies the allegations in paragraph 7 of the Petition for Cancellation.

8. Registrant denies the allegations of paragraph 8 of the Petition for Cancellation.

9. Registrant denies the allegations of paragraph 9 of the Petition for Cancellation.

10. Registrant denies the allegations of paragraph 10 of the Petition for Cancellation.

11. Registrant denies the allegations of paragraph 11 of the Petition for Cancellation.

12. Registrant denies the allegations of paragraph 12 of the Petition for Cancellation.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

13. The Petition fails to state a claim upon which the relief requested by Petitioner can be granted.

SECOND AFFIRMATIVE DEFENSE

14. There is no likelihood of confusion, mistake or deception because, *inter alia*, Registrant's mark HATTERAS is different in sight, sound and meaning from Petitioner's mark CAPE HATTERAS; and because the goods bearing the respective marks are different and are not marketed in the same channels of trade to the same consumers or class of consumers. Petitioner has admitted that there is no likelihood of confusion between Petitioner's CAPE HATTERAS mark and Registrant's HATTERAS mark as asserted in its Response filed on January 10, 2005 in the U.S. Application Serial No. 78/262,314 for the mark CAPE HATTERAS in class 11.

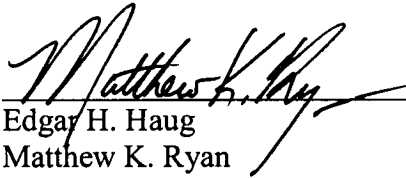
THIRD AFFIRMATIVE DEFENSE

15. Petitioner is barred by the doctrines of estoppel, waiver, laches and/or acquiescence.

WHEREFORE, Registrant prays that this cancellation be dismissed in its entirety.

Respectfully submitted,

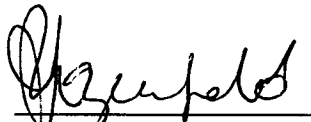
Dated: December 23, 2005


Edgar H. Haug
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES was mailed first mail, postage prepaid, on this 23rd day of December, 2005 to:

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