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

Proceeding	92054721
Party	Defendant Lumencor, Inc.
Correspondence Address	LUMENCOR INC 15250 NW GREENBRIER PARKWAY BEAVERTON, OR 97006 UNITED STATES
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Date	12/05/2011
Attachments	answer to cancel.pdf (5 pages)(1646335 bytes)

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

In the matter of Registration No. 3,702,748
Mark: SPECTRA LIGHT ENGINE
Registration Date: October 27, 2009

TIDAL PHOTONICS INC.,	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92054721
v.	)	
	)	
LUMENCOR, INC.,	)	
Registrant.	)	**Customer No. 23910**
	)	

ANSWER TO PETITION TO CANCEL

Registrant Lumencor, Inc. ("Lumencor") answers the Petition to Cancel ("Petition") as follows:

1. Lumencor admits that it is the Owner of Registration No. 3,702,748, for the mark SPECTRA LIGHT ENGINE (the "Registered Mark"), in connection with a "Light engine and light source, namely, a light engine subsystem consisting of light emitting diodes, light pipe lamp modules, and delivery optics" in class 009.

2. Lumencor admits that Petitioner filed trademark Application No. 85/401,844 for the mark SPECTRA in connection with a "Light engine and light source, namely, a light engine subsystem consisting of light emitters including lamps and solid state emitters, light processor and controller; Illumination equipment, namely, xenon lamps, metal halide lamps, high pressure mercury lamps, all with programmable control of wavelength or intensity or exposure" also in Class 009. Lumencor is without knowledge or information sufficient to form a belief as to each and every remaining allegation of paragraph 2 and therefore denies same.

3. Lumencor admits receiving a letter from Petitioner to abandon its mark. Lumencor denies that "the public has come to recognize Petitioner as the exclusive source

of light engines." Lumencor is without knowledge or information sufficient to form a belief as to each and every remaining allegation of paragraph 3 and therefore denies same.

4. Lumencor admits that its registration and Statement of Use alleges a first use in commerce date of August 7, 2009 for light engines. Lumencor denies each and every remaining allegation of paragraph 4.

5. Lumencor admits that it filed its application for Federal registration of the mark SPECTRA LIGHT ENGINE in International Class 009 on June 17, 2008. Lumencor denies each and every remaining allegation of paragraph 5.

6. Lumencor admits that the United States Patent and Trademark Office issued U.S. Registration No. 3,702,748 for the Registered Mark SPECTRA LIGHT ENGINE on October 27, 2009.

7. Lumencor admits that it filed its application for Federal registration of the mark SPECTRA LIGHT ENGINE in International Class 009 for light engines and related goods on June 17, 2008. Lumencor admits that its registration and Statement of Use alleges a first use in commerce date of August 7, 2009 for light engines. Lumencor denies each and every remaining allegation in paragraph 7.

8. Lumencor admits it expressly disclaimed the term "LIGHT ENGINE" apart from the Registered Mark SPECTRA LIGHT ENGINE . Lumencor admits that the word "SPECTRA" is identical to the word "SPECTRA." Lumencor admits that it uses the Registered Mark SPECTRA LIGHT ENGINE in commerce in connection with a light engine and light source, namely, a light engine subsystem consisting of light emitting diodes, light pipe lamp modules, and delivery optics. Lumencor denies each and every remaining allegation in paragraph 8.

9. Lumencor admits that its goods are displayed on the internet and trade journals. Lumencor admits that Lumencor and Petitioner have attended some of the same trade shows. Lumencor denies that Petitioner uses a mark identical to the Registered Mark SPECTRA LIGHT ENGINE. Lumencor denies that the goods offered by Lumencor and Petitioner are identical. Lumencor is without knowledge or information sufficient to form a belief as to each and every remaining allegations of paragraph 9 and therefore denies same.

10. Lumencor denies each and every allegation in paragraph 10.

11. Lumencor denies each and every allegation in paragraph 11.

12. Lumencor admits that there is no connection between Petitioner and Lumencor. Lumencor denies each and every remaining allegation in paragraph 12.

13. Lumencor's registration speaks for itself. Lumencor denies each and every remaining allegation in paragraph 13.

14. Lumencor's registration speaks for itself. Lumencor denies each and every remaining allegation in paragraph 14.

15. Lumencor is without knowledge or information sufficient to form a belief as to whether "Petitioner believes that it will be damaged and has been damaged by Registration No. 3,702,748" and therefore denies same.

16. Lumencor affirmatively alleges that, as the result of its usage of the Registered Mark SPECTRA LIGHT ENGINE, the Registered Mark is a valuable asset of Lumencor and carries considerable goodwill and consumer acceptance of its products sold under the Registered Mark. Such goodwill and widespread usage has made the Registered Mark distinctive to Lumencor.

17. Lumencor affirmatively alleges that there is a likelihood that Petitioner is not entitled to registration of the SPECTRA mark because, *inter alia,* the term "spectra" and variations thereof are widely used by others in their product and service names, or otherwise associated therewith, and because Petitioner has not used the mark SPECTRA on its own and apart from the mark ONELIGHT SPECTRA.

18. Lumencor affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, the consumers of light engines are highly educated and knowledgeable purchasers, the products are different in scope and technology, the products have coexisted for some time without evidence of actual confusion, and the Registered Mark SPECTRA LIGHT ENGINE is not confusingly similar to ONELIGHT SPECTRA.

Affirmative Defenses

1. Lumencor asserts the affirmative defenses of laches, acquiescence, estoppel, and unclean hands.

2. Lumencor further asserts that Petitioner's claims are barred as it has committed trademark misuse, fraud, inequitable conduct, and otherwise abused the trademark process.

3. Lumencor reserves the right to state further affirmative defenses based upon continuing investigation and discovery.

Lumencor requests that the Board deny Petitioner's Petition as it has failed to state a claim upon which relief may be granted.

WHEREFORE, Registrant Lumencor prays that the Petition For Cancellation be denied and dismissed with prejudice.

Respectfully submitted,

Date: December 5, 2011

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER TO PETITION TO CANCEL has been served on counsel for Petitioner, via First Class Mail, postage prepaid, on December 5, 2011, as follows:

Jason M. Rhodes
JMR LAW GROUP PLLC
1100 Dexter Avenue North, Suite 100
Seattle, Washington 98109

Choi Chen