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

Proceeding	91184143
Party	Defendant VERSACOMP, INC.
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Date	06/14/2008
Attachments	Answer to Notice of Opposition.pdf (10 pages)(33193 bytes) Answer Exhibit A.pdf (69 pages)(3114081 bytes) Answer Exhibits B through G.pdf (33 pages)(1268513 bytes)

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

In the Matter of U.S. Application No. 77/975,207

For the Mark: TNT

Filing Date: March 7, 2007

In the Matter of U.S. Application No. 77/975,208

For the Mark: TNT LIFT SYSTEMS

Filing Date: March 7, 2007

In the Matter of U.S. Application No. 77/124,511

Filing Date: March 7, 2007

ANTHONY P. SCHMIDT, JR.)	
)	
)	Opposition No. 91184143
Opposer,)	
vs.)	
)	
VERSACOMP, INC.)	
)	
Applicant.)	
_____)	

ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION

Applicant, Versacomp, Inc. (“Applicant”), by and through the undersigned counsel, hereby files its Answer and Affirmative Defenses to the Notice of Opposition and states as follows:

As to the preamble or opening paragraph of the Notice of Opposition, Applicant denies that Opposer will be damaged by registration of Applicant’s pending U.S. Application Serial Nos. 77/975,207 (“the ‘207 Application”), 77/975.208 (“the ‘208 Application”) and 77/124,511 (“the ‘511 Application) and also denies that Opposer has any valid legal basis to oppose registration of Applicant’s mark shown in the above-identified applications.

As to the numbered paragraphs of the Notice Of Opposition, Applicant states as follows:

1. Applicant lacks information or knowledge sufficient to form a belief concerning the allegations contained in Paragraph 1 of the Notice of Opposition and therefore denies such allegations.

2. Applicant admits the first sentence of Paragraph 2. With respect to the second sentence of Paragraph 2 Applicant states that it sells movable lifts and platforms secured to the transom of a boat. Applicant denies all other statements in Paragraph 2 of the Notice of Opposition.

3. Applicant lacks information or knowledge sufficient to form a belief concerning the allegations contained in Paragraph 3 of the Notice of Opposition and therefore deny such allegations.

4. Applicant denies that the '606 Patent is directed to a vehicle lift for a boat. Applicant lacks information or knowledge sufficient to form a belief concerning the remaining allegations contained in Paragraph 4 of the Notice of Opposition and therefore denies such allegations.

5. Applicant lacks information or knowledge sufficient to form a belief concerning the allegations contained in Paragraph 5 of the Notice of Opposition and therefore deny such allegations. Applicant does admit that Opposer's company TNT Marine Equipment, Inc. transferred any and all rights and goodwill to the TNT mark to a third party, namely (MAO, LC whose principal/manager was Michael A. O'Conner, Jr.) in 2000 as part of the sale of Opposer's business and as part of such sale Opposer also executed a ten-year non-compete agreement. See January 31, 2000 Agreement between

Seller TNT Marine Equipment, Inc., Seller Anthony P. Schmidt, Jr. and Buyer MAO, LC attached hereto as Exhibit A and two Bills of Sale between TNT Marine Equipment, Inc. (Opposer's then corporation) and MAO, LC dated January 2, 2000 attached hereto as Exhibits B and C. Applicant also admits that Opposer's business received three million dollars for the purchase of all non-patent assets by MAO, LC. Applicant also admits MAO, LC/Michael A. O'Conner defaulted on payment of an additional three million dollars to Opposer and also defaulted on money owed to the principal owner of Applicant. Applicant also admits that in view of such defaults, a subsequent Settlement Agreement was entered into between Opposer, Applicant's principal and Michael O'Conner and his then company TNT Marine Equipment, L.C., wherein Opposer received its patent rights back from the third party as full consideration and full settlement for the money still owed to Opposer by O'Conner/TNT Marine Equipment, L.C. and wherein Applicant's principal received all other assets of O'Conner/TNT Marine Equipment, L.C., including rights to the TNT mark and name, from O'Conner/TNT Marine Equipment, L.C. as full consideration and full settlement for money still owed to Applicant's principal by O'Conner/TNT Marine Equipment, L.C. See Settlement Agreement attached hereto as Exhibit D. See also Bill of Sale between Michael O'Conner, Jr. and Dick Ulrich (Applicant's principal) attached hereto as Exhibit E and Bill of Sale between Dick Ulrich and Versacomp, Inc. attached hereto as Exhibit F.

6. With respect to the first sentence of Paragraph 6 of the Notice of Opposition, Applicant again states that it sells movable lifts and platforms secured to the transom of a boat under the marks TNT and TNT LIFT SYSTEMS. As to the second sentence, Applicant admits that the third party O'Conner, MAO, LC and/or TNT Marine

Equipment, L.C., knew of, approved of and was compensated for Applicant's adoption of TNT and TNT LIFT SYSTEMS mark, in view of the merger relationship between Applicant and O'Conner/TNT Marine Equipment, L.C. See Exhibit G attached hereto.

7. Applicant admits that Opposer wrongfully began using the TNT mark in violation and with full knowledge of Applicant's superior rights from acquiring all rights to the TNT mark from the third party buyer and from actually using the TNT mark in commerce from approximately five years before Opposer began using the mark in 2006. Applicant denies all other allegations and characterizations contained in Paragraph 7 of the Notice of Opposition.

8. If Opposer had any rights to abandon, Applicant denies all allegations of Paragraph 8 of the Notice of Opposition. Applicant also states that Opposer transferred all rights Opposer may have had in the previous century to the TNT mark in 2000 to the third party buyer O'Conner/MAO, L.C. The transferred rights were ultimately transferred to Applicant as referenced above in Paragraph 5, which is incorporated by reference.

9. Applicant lacks information or knowledge sufficient to form a belief concerning the allegations contained in Paragraph 9 of the Notice of Opposition and therefore denies such allegations. Opposer does note that the vehicle lifts apparently sold by Gray Manufacturing, the original owner of Registration No. 818,635 ("the '635 Registration") were and are completely unrelated to the goods and services listed in Applicant's above noted applications and travel in completely different trade channels.

10. Applicant lacks information or knowledge sufficient to form a belief concerning the allegations contained in Paragraph 10 of the Notice of Opposition and therefore denies such allegations.

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