



1           3.     Applicant is without knowledge or information sufficient to form a belief as  
3 to the truth of the matters alleged in paragraph 3 of the Notice of Opposition, and  
5 therefore denies the same.

7           4.     Applicant is without knowledge or information sufficient to form a belief as  
9 to the truth of the matters alleged in paragraph 4 of the Notice of Opposition, and  
11 therefore denies the same.

13          5.     Applicant admits that Opposer filed an application for the goods alleged,  
15 but as to the remainder of the allegations, Applicant is without knowledge or information  
17 sufficient to form a belief as to the truth of the matters alleged in paragraph 5 of the  
19 Notice of Opposition, and therefore denies the same.

21          6.     Applicant denies the allegations of paragraph 6 of the Notice of  
23 Opposition.

25          7.     Applicant is without knowledge or information sufficient to form a belief as  
27 to the truth of the matters alleged in paragraph 7 of the Notice of Opposition, and  
29 therefore denies the same.

31          8.     Applicant denies the allegations of paragraph 8 of the Notice of  
33 Opposition.

35          9.     Applicant denies the allegations of paragraph 9 of the Notice of  
37 Opposition.

39          10.    Applicant denies the allegations in of paragraph 10 of the Notice of  
41 Opposition.

43

45

#### **AFFIRMATIVE DEFENSES**

47            In further answer to the Notice of Opposition, Applicant alleges as affirmative  
49 defenses the following:

**FIRST AFFIRMATIVE DEFENSE**

The Notice of Opposition fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Applicant's use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

**THIRD AFFIRMATIVE DEFENSE**

Applicant's mark, when used on Applicant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods by Opposer.

WHEREFORE, Applicant prays that this Opposition be dismissed with prejudice and that the registration of Application Serial No. 78/206,935 be granted.

Dated this 4<sup>th</sup> day of August, 2004

*Frederic M. Douglas*

Frederic M. Douglas  
Michael A. Shimokaji  
Attorney for Applicant  
Shimokaji & Associates  
1301 Dove Street, Suite 480  
Newport Beach, CA 92660-2409

Shimokaji & Associates, P.C.  
1301 Dove Street, Suite 480  
Newport Beach, CA 92660  
(949) 223-0838  
fax (949) 223-0845

**Certificate of Mailing under 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop, TTAB, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514

on August 4, 2004  
Date

*Frederic M. Douglas*

Frederic M. Douglas, Reg. No. 48,813  
Michael A. Shimokaji, Reg. No. 32,303

