

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

LABELTEX MILLS, INC. )  
 )  
 Opposer )  
 )  
 v. )  
 )  
 LABELTEX S.R.L. )  
 )  
 Applicant )

Opposition No. 91161944



10-13-2004  
U.S. Patent & TMOfo/TM Mail Rcpt Dt. #1

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Labeltex S.r.l. hereby answers the notice of opposition in the above referenced opposition proceeding as follows:

1. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 1 and therefore denies the allegations.
2. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 2 and therefore denies the allegations, except that Applicant began using its mark in the United States long prior to July 2000.
3. Applicant admits the allegations contained in Paragraph 3.
4. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 4 and therefore denies the allegations.
5. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 5 and therefore denies the allegations.
6. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 6 and therefore denies the allegations.

7. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 7 and therefore denies the allegations.

8. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 8 and therefore denies the allegations.

9. Applicant admits the allegations contained in Paragraph 9 in that Applicant's adoption of the mark LABELTEX & Design was not authorized, consented to or approved by Opposer. Because Applicant has prior rights in the mark LABELTEX, Applicant never requested and does not require any authorization from Opposer to use and apply to register its mark LABELTEX & Design.

10. Applicant repeats its answers to Paragraph 1 through 9 and incorporates the same by reference in response to Paragraph 10.

11. Applicant denies the allegations in Paragraph 11.

12. Applicant repeats its answers to Paragraph 1 through 9 and incorporates the same by reference in response to Paragraph 12.

13. Applicant denies the allegations in Paragraph 13.

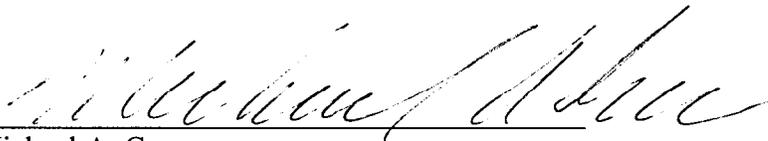
#### **AFFIRMATIVE DEFENSES**

1. The Notice of Opposition fails to state a claim on which relief may be granted.
2. Opposer's claims are barred by the doctrine of waiver.
3. Opposer's claims are barred by the doctrine of acquiescence.
4. Opposer's claims are barred by the doctrine of estoppel.
5. Opposer's claims are barred by the doctrine of unclean hands because Opposer has engaged in inequitable conduct directly related to the subject matter of this proceeding.

6. Opposer's claims are barred by the fact that Applicant has prior rights in its mark LABELTEX & Design.

In view of the foregoing, Applicant requests that the notice of opposition be dismissed.

LABELTEX S.R.L.

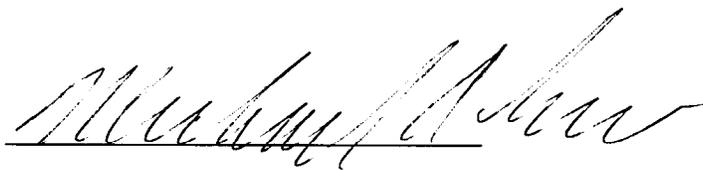
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**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing has been served on Opposer's counsel Robert Louis Finkel, 5215-2 White Oak Avenue, Encino, California 91316, this 12th day of October 2004 marked first class mail postage prepaid.



**CERTIFICATE OF MAILING**

It is hereby certified that the attached Answer to Notice of Opposition (Re: Opposition No. 91161944) is being deposited with the United States Postal Service, first class mail postage prepaid, addressed to the Commissioner For Trademarks, P.O. Box 1451, Alexandria, Virginia 22313, this 12th day of October 2004.

