

ESTTA Tracking number: **ESTTA70766**

Filing date: **03/14/2006**

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

Proceeding	91168995
Party	Defendant ATLAS BLOCK CO. LIMITED ATLAS BLOCK CO. LIMITED Box 670 CAX Midland, Ontario, L4R 4P4
Correspondence Address	DAN HITCHCOCK RICHES, MCKENZIE & HERBERT LLP SUITE 1800 2 BLOOR STREET EAST TORONTO, ONTARIO CANADA , M4W 3J, 5
Submission	Answer
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Date	03/14/2006
Attachments	Answer to VENICE Opposition.pdf (4 pages)

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

In the matter of Trademark Application Serial No. 76/485,978

Mark: VENICE

Published in the *Official Gazette* on October 11, 2005

Venis, S.A.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91168995
)	
Atlas Block Co. Limited,)	
)	
Applicant.)	
)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER AND AFFIRMATIVE DEFENSE TO OPPOSITION

Atlas Block Co. Limited (“Applicant”) by its counsel Bell, Boyd & Lloyd LLC, hereby files its Answer to the Opposition filed herein by Venis, S.A. (“Opposer”), as follows:

1. Since long prior to January 29, 2003, (the filing date of the Application based on intent to use) Venis has held significant common law and statutory rights in the mark VENIS as applied to non-metallic tiles, slabs, flags and paving blocks, non-metallic ceramic blocks and slabs for revetment of floors and walls, by virtue of long and extensive use and a federal registration as pleaded hereinafter.

ANSWER: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1, and therefore denies the same.

2. Venis is the owner, user and registrant of the mark VENIS as set forth in the following registration:

- Registration No. 2,212,365, for "non-metallic tiles, slabs, flags and paving blocks, non-metallic ceramic blocks and slabs for revetment of floors and walls" in International Class 19.

ANSWER: Applicant admits only that Opposer is the registrant of record of Registration No. 2,212,365 and that the registration covers “non-metallic tiles, slabs, flags and paving blocks, non-metallic ceramic blocks and slabs for revetment of floors and walls” in Class 19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 2, and therefore denies the same.

3. The above-mentioned registration is valid and incontestable. A Copy of the registration with current status and title pleaded in paragraph 2 above is attached as Exhibit A.

ANSWER: Applicant admits only that a copy of a registration is attached as Exhibit A to Opposer’s Notice of Opposition and states that the document speaks for itself. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 3, and therefore denies the same.

4. By virtue of its high quality products sold, advertised, and promoted under the mark VENIS and by virtue of the extensive sales, promotion and advertising of such high quality products, Venis’ goods are well and favorably known throughout the United States.

ANSWER: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4, and therefore denies the same.

5. On information and belief, Atlas has made no use of VENICE for any goods to date.

ANSWER: Applicant denies the allegations contained in Paragraph 5.

6. Consumers and others familiar with the famous VENIS mark from Venis will assume (mistakenly) that VENICE is a product emanating from the makers of the VENIS mark.

ANSWER: Applicant denies the allegations contained in Paragraph 6.

7. The simultaneous use of VENICE for the products recited in the Application on the one hand, and Venis' products on the other hand, will be likely to cause confusion, deception or mistake, all to the damage of the prior user and registrant, Venis.

ANSWER: Applicant denies the allegations contained in Paragraph 7.

Affirmative Defense

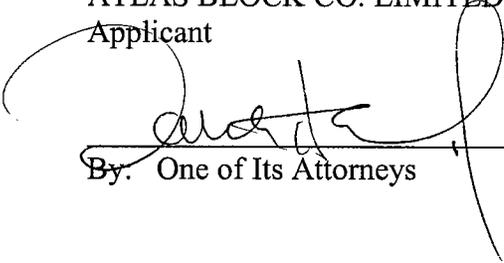
1. Opposer fails to state a claim upon which relief can be granted.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be dismissed with prejudice in its entirety.

Dated: March 14, 2006.

Respectfully submitted,

ATLAS BLOCK CO. LIMITED,
Applicant


By: One of Its Attorneys

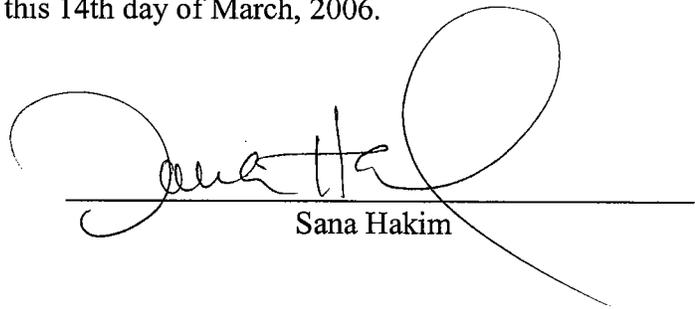
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(312) 372-1121

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that she caused a copy of Applicant's Answer and Affirmative Defense to Notice of Opposition to be served upon counsel for Opposer at the following address:

G. Franklin Rothwell
Rothwell, Figg, Ernst & Manbeck, P.C.
Suite 800
1425 K Street, N.W.
Washington, D.C. 20005

by first class mail, proper postage prepaid, this 14th day of March, 2006.


Sana Hakim