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Filing date: **12/19/2006**

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

Proceeding	91174525
Party	Defendant Valiant Intellectual Properties, LLC Valiant Intellectual Properties, LLC P. O. Box 2207 Wilmington, DE 19899
Correspondence Address	MICHAEL L. LOVITZ, ESQ. CONNOLLY BOVE LODGE & HUTZ LLP PO BOX 2207 WILMINGTON, DE 19899-2207
Submission	Answer
Filer's Name	Michael L Lovitz
Filer's e-mail	mlovitz@cblh.com, trademarks@cblh.com
Signature	/michael l lovitz/
Date	12/19/2006
Attachments	Answer Harbinger.pdf (4 pages)(86681 bytes)

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

VALIANT ENTERTAINMENT INC.	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. 91174525
	:	
VALIANT INTELLECTUAL PROPERTIES, LLC	:	
	:	
Applicant.	:	Attorney Docket No. 13323-20

ANSWER TO NOTICE OF OPPOSITION

VALIANT INTELLECTUAL PROPERTIES, LLC, a Delaware limited liability company having a mailing address of P.O. Box 2207, Wilmington, DE 19899 (“Applicant”), hereby responds to the Notice of Opposition filed with respect to U.S. Trademark Application Serial No. 78/598,994:

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations of this paragraph, and therefore denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as to the allegations of this paragraph, and therefore denies the same.
3. Applicant is without knowledge or information sufficient to form a belief as to the allegations of this paragraph, and therefore denies the same.
4. Denied.
5. Applicant is without knowledge or information sufficient to form a belief as to the allegations of this paragraph, and therefore denies the same.
6. Admitted.

7. Admitted in part; denied in part. Applicant admits the mark of the instant application is HARBINGER, which mark is identical in appearance, sound and meaning to the HARBINGER mark in which Valiant Entertainment Inc. (“Opposer”) alleges it has rights. The remaining allegations of Paragraph 7 are denied.

8. Denied

9. Denied.

AFFIRMATIVE DEFENSES

A. Opposer lacks standing to bring the instant opposition proceeding.

B. Opposer has demonstrated no, and has failed to plead any, current or future interest in the mark HARBINGER.

C. The rights relied upon by Opposer are invalid as such rights were abandoned by Acclaim Comics, Inc. long prior to its filing for protection of the bankruptcy laws, and Opposer was aware of the abandonment of rights in this and other trademarks, and the resulting diminution of value of the assets being sold in bankruptcy, prior to its purchase of such assets, whereby Opposer was able to obtain a reduction in the purchase price for the remaining assets.

D. There is no likelihood of confusion as between the respective marks as applied to the parties’ respective products and services.

E. Opposer has no priority of rights in the term “HARBINGER” as applied to comic books and related goods and services, and thus cannot support a Section 2(d) priority claim against Applicant.

F. Opposer cannot demonstrate injury to any rights Opposer may establish during the opposition proceeding.

WHEREFORE, Applicant prays that this Opposition proceeding be dismissed and that Application Serial No. 78/598,994 be allowed to proceed to registration.

Respectfully submitted,

Dated:

By:



Michael L. Lovitz
CONNOLLY BOVE LODGE & HUTZ, LLP
The Nemours Building
1007 North Orange Street
P.O. Box 2207
Wilmington, DE 19899
(302) 658-9141
Attorneys for Applicant

CERTIFICATE OF SERVICE

I, Michael L. Lovitz, hereby certify on this 19th day of December, 2006, that a true and correct copy of the foregoing Applicant's **Answer to Notice of Opposition** was served upon counsel of record via First Class Mail at the following address:

Marya Lenn Yee, Esquire
DONOVAN & YEE LLP
110 Greene Street, Suite 700
New York, NY 10012
dalexander@yeellp.com



Michael L. Lovitz, Esq