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

Proceeding	91183079
Party	Defendant Settgast, David
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Submission	Answer
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Date	04/28/2008
Attachments	SET.001_Answer_.pdf ( 4 pages )(27765 bytes )

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

3M Company  
Opposer,

v.

David Settgest,  
Applicant

In the matter of  
Trademark Serial No. 77/064,778  
For the mark: BOOBOO TATTOO  
International Class 005

Opposition No. 91,183,079

ANSWER TO NOTICE OF  
OPPOSITION

SET.0101

ANSWER TO NOTICE OF OPPOSITION

Applicant, David Settgest (“Applicant”), by his attorneys, hereby answers the allegations set forth in the Notice of Opposition of Trademark Serial Number 77/064,778 (“Notice of Opposition”) as follows:

Applicant denies the allegation in the preamble that Opposer will be damaged by the registration of Trademark Serial No. 77/064,778. Applicant has insufficient knowledge or information as to the truth of Opposer’s company information or place of business and therefore denies said allegations. Applicant admits the remaining allegations in the preamble.

1. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition and, therefore, denies said allegations.

2. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 2 of the Notice of Opposition and, therefore, denies said allegations.

3. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 3 of the Notice of Opposition and, therefore, denies said allegations.

4. Applicant denies the allegations set forth in Paragraph 4 of the Notice of Opposition.

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5. Applicant denies the allegations set forth in Paragraph 5 of the Notice of Opposition.

6. Applicant denies the allegations set forth in Paragraph 6 of the Notice of Opposition.

7. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 7 of the Notice of Opposition and, therefore, denies said allegations.

8. Applicant admits that the on-line database of the United States Patent and Trademark Office indicates that 3M Company Corporation owns registration number 2,291,484 for the mark TATTOO in connection with adhesive bandages in international class 5. Applicant denies the remaining allegations in Paragraph 8 of the Notice of Opposition.

9. Applicant admits the allegations set forth in Paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations set forth in Paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations set forth in Paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations set forth in Paragraph 12 of the Notice of Opposition.

Applicant expressly denies any and all allegations in the Notice of Opposition not expressly admitted above.

#### Ad Damnum Clause

Applicant denies Opposer is entitled to the relief it seeks.

#### AFFIRMATIVE DEFENSES

1. The relevant customers are sophisticated and not likely to be confused.
2. The channels of trade are sufficiently different so as to preclude a likelihood of confusion.

3. The marks are sufficiently dissimilar so as to preclude a likelihood of confusion.
4. Opposer's mark is not distinctive and at best is a weak mark.

Respectfully submitted,



Cheryl Meide  
Attorney for Applicant  
Florida Bar No. 0064173

April 28, 2008  
Date

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer to the Notice of Opposition was deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Chet F. Garner Fulbright & Jaworski LLP, 600 Congress Ave. Ste. 2400, Austin, TX 78701, on the date set forth below.



Cheryl Meide  
Attorney for Applicant  
Florida Bar No. 0064173

April 28, 2008  
Date

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CERTIFICATE OF ESTTA MAILING

Date of Deposit April 28, 2008

Signature   
Name: Cheryl Meide, Esquire

I hereby certify that this document to the Trademark Trial and Appeal board is being submitted via the Electronic System for Trademark Trials and Appeals ("ESTTA") on the date noted above.