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

Proceeding	91183701
Party	Defendant Blackwell, Kevin D.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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ENTERPRISE RENT-A-CAR)	
COMPANY)	
)	Opposition No. 91183701
Opposer,)	
)	
KEVIN D. BLACKWELL,)	Directed to App. No. 77/297,923
)	
Applicant.)	
)	
)	
)	
)	

ANSWER TO NOTICE OF OPPOSITION

Applicant Kevin Blackwell, without waiving any right due to any insufficiency in the statement of the grounds of opposition, and saving to itself all defenses in law and equity, answers Enterprise's Notice of Opposition as follows:

PARTIES

1. Applicant is without information sufficient to form a belief as to the truth of the allegations in this paragraph and, therefore, denies them.

2-4. Admits.

BACKGROUND

5. Applicant is without sufficient information to know exactly how Opposer used its trademarks in interstate commerce and for how long. Applicant therefore denies the allegations in this paragraph.

6-7. Applicant admits that Opposer is the record owner of various trademark registrations and applications, as listed in these paragraphs and admits that those registrations issued prior to the filing date of Applicant's application. Applicant is

without information sufficient to admit or deny whether those registrations are “valid and in good standing.” Applicant denies the remaining allegations.

8. Applicant admits that Opposer has provided certain services, such as new car renting, under various marks that incorporate the term “ENTERPRISE” prior to Applicant’s use, if any, of the mark applied for by Applicant. Applicant further states that it does not know what the phrase “ENTERPRISE marks” means. Applicant denies the remaining allegations in this paragraph.

9. Denies.

COUNT I

(Likelihood of Confusion)

10. Applicant restates its responses to paragraphs 1 through 9 as if set forth herein.

11. Applicant admits that it has not yet used the mark applied for in the Application. Applicant is without information sufficient to form a belief as to Opposer’s actual first use, if any, of each registered mark and, therefore, denies the remaining allegations in this paragraph. Applicant further states that it does not know what the phrase “ENTERPRISE marks” means.

12-15. Denies.

COUNT II

(Dilution)

16. Applicant restates its responses to paragraphs 1 through 15 as if set forth herein.

17-19. Denies.

AFFIRMATIVE DEFENSES

1. Numerous marks incorporating the term “Enterprise” coexist in commerce, including in the field of automobiles.
2. “Enterprise” is a common English language term used to refer to a business, including businesses related to automobiles. “Rent-A” similarly is a common English language term used to refer to certain businesses, including those related to automobiles.
3. “Enterprise” is a generic term for a business. “Rent-A” is a generic term for a business involved in renting products such as automobiles.
4. Numerous marks incorporating the term “Rent-A” or similar phrases coexist in commerce for various businesses, including businesses related to automobiles and particularly to rental of automobiles.
5. Opposer’s rights, if any, have been abandoned as a result of having permitted third party uses of the terms “Enterprise” and “Rent-A”.
6. The marks of Opposer and Applicant are sufficiently different when considered in their entirety to avoid any likelihood of confusion, mistake or deception, as applied to the respective goods of Opposer and Applicant.
7. The goods and/or services of Opposer and Applicant are sufficiently different to avoid any likelihood of confusion, mistake or deception.
8. Opposer’s claims are barred by the principle of estoppel.
9. Applicant reserves the right to assert additional defenses as learned through discovery.

Respectfully submitted,

GALLOP, JOHNSON & NEUMAN, L.C.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent by facsimile and first-class U.S. mail, postage prepaid, this 24th day of July 2008, to:

Hadi S. Al-Shathir
Thomas A. Polcyn
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/Jeffrey H. Kass/

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