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

Proceeding	91185310
Party	Defendant Weems Industries, Inc. dba Legacy Manufacturing Company
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Date	11/24/2009
Attachments	AnswertoPetitionforOpposition.pdf (5 pages)(113351 bytes)

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

BIG O TIRES, LLC Opposer, v. WEEMS INDUSTRIES, INC. dba LEGACY MANUFACTURING COMPANY Applicant.	)))))))))))	Opposition No.: 91185310 Mark: LEGACY Application Serial No.: 77/109,547 Filing Date: February 16, 2007

ANSWER TO PETITION FOR OPPOSITION

Applicant, WEEMS INDUSTRIES, INC. dba LEGACY MANUFACTURING COMPANY ("Applicant"), for its Answer to the Petition for Opposition, alleges as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 as to the entity and location of Big O Tires, LLC (the "Opposer"), the alleged products sold by Opposer, or the alleged operation of retail stores, and therefore denies same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 and therefore denies same.

3. Applicant admits that Big O Tires, Inc., a Nevada corporation, is the last listed owner of record listed at the United States Patent and Trademark Office for Registration Nos. 1,393,967 and 3,003,292; however, Applicant is without knowledge or information sufficient to form a belief as to the relationship between Opposer and Big O Tires, Inc., and therefore denies same. Applicant is without knowledge or information sufficient to form a belief as to the truth of

the allegations as to the validity, ownership and exclusive right to use the registered marks in commerce as alleged in Paragraph 3, and therefore denies same.

4. Applicant admits the allegations of Paragraph 4.

5. Applicant denies the allegations of Paragraph 5 as alleged.

6. Applicant denies the allegations of Paragraph 6 as alleged.

7. Applicant denies the allegations of Paragraph 7 as alleged.

8. Applicant denies the allegations of Paragraph 8 as alleged.

GENERAL DENIAL

9. Applicant hereby denies each and every allegation not previously specifically and expressly admitted or denied herein.

FIRST ADDITIONAL DEFENSE

10. The Petition for Opposition fails to state a claim for which relief can be granted.

SECOND ADDITIONAL DEFENSE

11. There is no likelihood of confusion, mistake or deception of the purchasing public between Applicant's mark and Opposer's marks when considered in their entireties.

THIRD ADDITIONAL DEFENSE

12. There is no likelihood of confusion, mistake or deception of the purchasing public between Applicant's mark and Opposer's marks as any associated goods are noncompetitive and unrelated.

FOURTH ADDITIONAL DEFENSE

13. There is no likelihood of confusion, mistake or deception of the purchasing public between Applicant's mark and Opposer's marks as the marks and any associated goods travel through unrelated and/or different channels of trade.

FIFTH ADDITIONAL DEFENSE

14. Opposer's claims are barred as Opposer has abandoned Opposer's marks with intent not to continue use.

SIXTH ADDITIONAL DEFENSE

15. Opposer's claims are barred by the doctrine of laches.

SEVENTH ADDITIONAL DEFENSE

16. Opposer's claims are barred as Applicant has priority of use of the mark "LEGACY" relating to goods listed in United States Application No. 77/109,547.

EIGHTH ADDITIONAL DEFENSE

17. Opposer's claims are barred by the doctrine of unclean hands.

18. Applicant reserves the right to assert additional affirmative defenses in accordance with the evidence and pursuant to applicable law and rules of procedure.

WHEREFORE, Applicant prays for judgment dismissing the opposition petition in its entirety.

Respectfully Submitted,

Date: 11/24/09

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CERTIFICATE OF SERVICE

One copy of the foregoing ANSWER TO PETITION FOR OPPOSITION has been mailed in a postage prepaid envelope deposited in a box under the custody of the U.S. postal Service this 24 day of November, 2009 to Marsha G. Gentner, Esq., Jacobson Holman PLLC, 400 – 7th Street, N.W., Washington, DC 20004.

Carol McFadden

CERTIFICATE OF FILING

I hereby certify that this correspondence is being filed electronically on-line as a PDF document filing form to the Assistant Commissioner for Trademarks this 24 day of November, 2009.

Carol McFadden