

ESTTA Tracking number: **ESTTA360672**

Filing date: **07/29/2010**

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

Proceeding	91185325
Party	Plaintiff La Senza Corporation
Correspondence Address	GEORGE W. LEWIS JACOBSON HOLMAN PLLC 400 7TH STREET, NW WASHINGTON, DC 20004 UNITED STATES mcuccias@jhip.com, trademark@jhip.com, joyhenart@jhip.com
Submission	Answer to Counterclaim
Filer's Name	Matthew J. Cuccias
Filer's e-mail	mcuccias@jhip.com, trademark@jhip.com, joyhenart@jhip.com
Signature	/Matthew J. Cuccias/
Date	07/29/2010
Attachments	91185325_Answ to CC.pdf ( 4 pages )(161150 bytes )

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

LA SENZA CORP.,

Opposer and Counterclaim Defendant,

vs.

OLYMPIC MOUNTAIN AND MARINE  
PRODUCTS, INC.,

Applicant and Counterclaim Plaintiff.

Opposition No. 91185325

**OPPOSER'S ANSWER TO COUNTERCLAIM**

Opposer and Counterclaim Defendant, LA SENZA CORP. ("Opposer"), subject to Opposer's Request for Reconsideration (filed on July 14, 2010), hereby answers Applicant's Amended Answer to Notice of Opposition and Counterclaim for [Partial] Cancellation ("Counterclaim"), as follows:

\* Opposer understands that no answer is required as to the allegations set forth in paragraph 12 of the Counterclaim.

1. Opposer is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in paragraph 13 of the Counterclaim concerning the ordinary course of business of the United States Patent and Trademark Office ("PTO"), and therefore denies same. Opposer admits that the PTO public records contain a document entitled "DECLARATION UNDER SECTION 8", bearing a date of October 20, 1999, in connection with Registration No. 1,800,379 (the "379 Registration"). However, Opposer denies the characterizations attributed to the documents referenced in paragraph 13 of the Counterclaim; the documents speak for themselves.

2. Opposer is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in paragraph 14 of the Counterclaim concerning the PTO's ordinary course of business, and therefore denies same. Opposer admits that the PTO public records contain a document entitled "COMBINED DECLARATION OF USE IN COMMERCE/APPLICATION FOR RENEWAL", bearing a date of October 23, 2003, in connection with the '379 Registration. However, Opposer denies the characterizations attributed to, and the consequences resulting from, the document referenced in paragraph 14 of the Counterclaim; the document speaks for itself.

3. Opposer is without sufficient knowledge or information upon which to form a belief as to the truth of the allegations set forth in paragraph 15 of the Counterclaim concerning the PTO's ordinary course of business, and therefore denies same. Opposer admits that a document entitled "NOTICE OF RENEWAL" and "NOTICE OF ACCEPTANCE" issued on the '379 Registration. Opposer further admits that it was error for the Trademark Office to not narrow the identification of goods recited in '379 Registration to "body lotions"; and that this error should be corrected. However, Opposer denies the characterizations attributed to the document referenced, and the remaining allegations contained, in paragraph 15 of the Counterclaim; the document speaks for itself. Opposer specifically denies that the Trademark Office error was "fostered, if not caused" by any action of Opposer.

4. Opposer denies the allegations set forth in paragraph 16 of the Counterclaim; however Opposer admits that it was error for the Trademark Office to not narrow the identification of goods recited in Opposer's registration to "body lotions"; and that this error should be corrected.

5. Answering paragraph 17 of the Counterclaim, Opposer admits that the PTO records reflect an application, Serial No. 77/071,961, in the name of Applicant, for the mark ESSENZA in connection with “scented oils used to produce aromas when heated; essential oils for household use” in Class 3, and “scent diffusers comprised of a container and wood rods used to diffuse oil scent poured in the container” in Class 21. Opposer is without sufficient knowledge or information upon which to form a belief as to the truth of the remaining allegations set forth in paragraph 17 of the Counterclaim, and therefore denies same.

6. To the extent understood, Opposer denies the characterizations attributed to the document referenced in paragraph 18 of the Counterclaim; the document speaks for itself.

7. To the extent understood, Opposer denies the characterizations attributed to the document referenced in paragraph 19 of the Counterclaim; the document speaks for itself.

8. To the extent understood, Opposer denies the characterizations attributed to the document referenced in paragraph 20 of the Counterclaim; the document speaks for itself.

9. To the extent understood, Opposer denies the characterizations attributed to the document referenced in paragraph 21 of the Counterclaim; the document speaks for itself.

10. Opposer denies the allegations set forth in paragraph 22 of the Counterclaim.

11. Opposer denies the allegations set forth in paragraph 23 of the Counterclaim.

#### **GENERAL DENIAL**

All allegations set forth in the Counterclaim which are not specifically admitted herein are denied.

#### **AFFIRMATIVE DEFENSES**

12. The Counterclaim fails to state a claim upon which relief can be granted.

