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

Proceeding	91186790
Party	Defendant Bennett Productions, Inc.
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Submission	Answer
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Attachments	2008-11-12 BPI Answer to Opposition.pdf (5 pages)(33257 bytes)

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

VV STERLING CORPORATION, Petitioner, v. BENNETT PRODUCTIONS, INC., Registrant.	Opposition No.: 91186790 Serial No: 78908549 Mark: BIKINI DESTINATIONS Registration Date: June 14, 2006
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Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

REGISTRANT’S ANSWER TO OPPOSITION

Registrant Bennett Productions, Inc. (“Bennett”), the owner of the above-referenced application, Serial No. 78908549, for the mark “Bikini Destinations” by and through its attorneys, hereby submits its Answer to the Opposition filed by VV Sterling Corporation (“Opposer”).

1. Bennett denies that Opposer has any factual or legal basis on which Bennett’s application for registration for the foregoing mark can be denied. To the extent the Opposer alleges in its Opposition that it possesses any rights upon which Bennett’s application may be denied, Bennett denies each and every allegation contained therein.

2. With regard to U.S. Trademark Application Nos. 76010031, 76010032, 76010033, 76010034, 76010035, 77454044, 77454883, and 7754798, Bennett alleges that such applications speak for themselves, are irrelevant and do not reference any marks which can cause

any confusion with the “Bikini Destinations” mark herein. Accordingly, Bennett alleges that such applications do not form any basis upon which Opposer may oppose the registration herein.

3. Bennett alleges that it has been using the mark “Bikini Destinations” on a television series, among other uses, since at least 2002. Thus, Bennett’s use of the mark at issue precedes any and all uses alleged by Opposer herein.

AFFIRMATIVE DEFENSE

FIRST AFFIRMATIVE DEFENSE

(Non-Use of Mark)

As its First Affirmative Defense, Bennett hereby alleges that Opposer never used the mark “Bikini Destinations,” or any mark confusingly similar thereto, in commerce or otherwise.

SECOND AFFIRMATIVE DEFENSE

(Abandonment)

As its Second Affirmative Defense, Bennett hereby alleges that, even if Opposer is found to have made some use of the mark “Bikini Destinations,” or any mark confusingly similar thereto, Opposer abandoned that mark prior to the time that Bennett’s use of the mark commenced.

THIRD AFFIRMATIVE DEFENSE

(Abandonment)

As its Third Affirmative Defense, Bennett hereby alleges that Opposer abandoned any application or intent to use for the mark “www.bikinidestinations.com.”

FOURTH AFFIRMATIVE DEFENSE

(Laches)

As its Fourth Affirmative Defense, Bennett hereby alleges that Opposer has delayed unreasonably in giving notice to Bennett of the matters alleged in the Opposition in commencing this litigation to the prejudice of Bennett, and the Petition is thereby barred by laches.

FIFTH AFFIRMATIVE DEFENSE

(Acquiescence)

As its Fifth Affirmative Defense, Bennett hereby alleges that Opposer acquiesced to Bennett's use of the mark "Bikini Destinations."

SIXTH AFFIRMATIVE DEFENSE

(Estoppel)

As its Sixth Affirmative Defense, Bennett hereby alleges that Opposer is estopped to assert any and all of the relief sought in the Opposition since, in the face of her consent and acquiescence to Bennett's use of the mark and subsequent delay in asserting the claims herein, Bennett detrimentally relied upon Opposer's conduct.

WHEREFORE, Defendant and Registrant Bennett Productions, Inc. requests that the Opposition of Opposer VV Sterling, Inc. be dismissed.

Please recognize the undersigned Melvin N.A. Avanzado, attorney-at-law admitted to practice before all courts of the State of California, as Applicant's attorneys of record in the above-referenced opposition. Please direct correspondence to the undersigned.

DATED: November 12, 2008

THE AVANZADO LAW FIRM

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By /s/ Melvin N.A. Avanzado

Melvin N.A. Avanzado

Attorneys for Defendant and Registrant Bennett
Productions, Inc.

CERTIFICATE OF SERVICE

It is hereby certified that on December 31, 2007, a copy of the foregoing REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION has been sent by first class mail, postage prepared to the attorney of record for Petitioner:

Susan Rabin
Christopher Pham
GareebPham, LLP
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