

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

<p>INNOCENT SKIN, INC., A NEVADA CORPORATION,</p> <p align="center">Opposer,</p> <p align="center">v.</p> <p>MORGEN BENTSEN,</p> <p align="center">Applicant.</p>	<p>Opposition No. 91188241</p> <p>Serial No.: 77/490049</p> <p>Mark: INNOCENT SKIN</p>
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Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

MOTION TO EXTEND TIME FOR APPLICANT'S ANSWER TO BE FILED

Pursuant to TBMP §509 and Federal Rule of Civil Procedure Rule 6(b)(2), Applicant Morgen Bentsen hereby moves that the time for Applicant's Answer to be filed with the Board be extended up to and including the date of the Board's receipt and processing of this Motion. Applicant's original Answer with its original proof of service, ready for filing with the Board, is Exhibit A to the declaration of counsel in support of this Motion.

Applicant's Motion is based on the grounds that Applicant's Answer was not filed on or before February 12, 2009 due to excusable neglect, as set forth in the declaration of Applicant's counsel and the exhibits thereto.

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02-27-2009

U.S. Patent & Trademark Office, Dept. Of Justice

Wherefore, Applicant prays that the Board grant the relief requested.

Dated: February 24, 2009

By



John Yates, Esq.

GREENBERG & BASS LLP

16000 Ventura Blvd., Suite 1000

Encino, California 91436

(818) 382-6200 fax (818) 986-6534

jyates@greenbass.com

Attorneys for Applicant Morgen Bentsen

Declaration of John Yates in Support of Motion

I, John Yates, state that:

1. I have personal knowledge of the facts set forth herein, and first-hand knowledge of same. If called upon to testify, I could and would testify competently thereto.
2. Greenberg & Bass LLP are attorneys of record in this proceeding for Applicant Morgen Bentsen. I am the attorney with principal responsibility for defending the Opposition commenced by Opposer.
3. On February 11, 2009, Applicant's Answer and Affirmative defenses were mailed by first-class mail to the address currently stated in TBMP §§110.02(a) and 103, namely, 2900 Crystal Drive, Ninth Floor, Arlington, Virginia 22202-3514. A copy of Applicant's Answer and Affirmative Defenses was served the same day by first-class mail on counsel for Opposer. Applicant's original Answer and Affirmative Defenses and the original proof of service are Exhibit A to this declaration.
4. I was unaware that the mailing address stated in the proof of service for the Board was incorrect, because the TBMP consistently states the incorrect address for mailing. Only by looking at the "FAQ" section of the USPTO website did I discover that the correct mailing address for the Board.
5. On February 23, 2009, the original Answer was returned to me by the Post Office, noting that the forwarding order to the Board's new address had expired. A copy of the envelope returned by the Post Office is Exhibit B to this declaration.
6. Applicant requests that the Board accept for filing and file the original of Applicant's Answer and Affirmative Defenses that is Exhibit A to this declaration.

I swear under penalty of perjury under the laws of the United States and of the State of California that the foregoing is true and correct, and that this declaration is executed the 24th day of February, 2009, at Encino, California.


John Yates

EXHIBIT A

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

INNOCENT SKIN, INC., A NEVADA CORPORATION, Opposer, v. MORGEN BENTSEN, Applicant.	Opposition No. 91188241 Serial No.: 77/490049 Mark: INNOCENT SKIN
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Attn: Trademark Trial and Appeal Board
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

ANSWER AND AFFIRMATIVE DEFENSES

ANSWER

Applicant Morgen Bentsen for his answer and affirmative defenses to the Notice of Opposition filed by Opposer Innocent Skin, Inc. alleges as follows:

1. Denies the allegations of this paragraph.
2. Denies the allegations of this paragraph.
3. Admits that Opposer entered into a contract with Applicant and two other individuals on May 15, 2007, and denies the remaining allegations of this paragraph.
4. Admits that Applicant submitted an application for registration of the trademark INNOCENT SKIN on June 3, 2008, and denies the remaining allegations of this paragraph.
5. Admits that Opposer submitted an application for registration of the trademark INNOCENT SKIN on December 2, 2008, and denies the remaining allegations of this paragraph.

6. Admits that Opposer's attorneys sent two letters, and denies the remaining allegations of this paragraph.

7. Admits the allegations of this paragraph.

8. Denies the allegations of this paragraph.

9. Denies the allegations of this paragraph.

10. Incorporates by this reference Applicant's responses to paragraphs 1 through 9.

11. Admits the allegations of this paragraph.

12. Denies that Opposer has developed any statutory or common law trademark rights in the trademark INNOCENT SKIN, and lacks information or belief sufficient to admit or deny the remaining allegations of this paragraph.

13. Denies that Opposer has developed any statutory or common law trademark rights in the trademark INNOCENT SKIN, denies that Opposer has any purported "zone of expansion," and denies the remaining allegations of this paragraph.

14. Incorporates by this reference Applicant's responses to paragraphs 1 through 13.

[sic] 16. Denies the allegations of this paragraph.

17. Incorporates by this reference Applicant's responses to paragraphs 1 through 16.

18. Admits that Applicant was an investor under the terms of the contract until Opposer breached the contract, and Applicant exercised Applicant's contractual rights to become the sole owner of the intellectual property rights relating to the films that were the subject of the contract, and denies the remaining allegations of this paragraph.

19. Admits that Opposer purports to recite applicable law, denies that any agreement exists precluding Applicant from use or registration of the INNOCENT SKIN trademark, and denies the remaining allegations of this paragraph.

AFFIRMATIVE DEFENSES

(Untimely Filing of Opposition)

20. Applicant alleges that Opposer's Notice of Opposition was submitted, and the required fee paid, after midnight on December 27, 2008 and/or after midnight on December 29, 2008. Opposer's Notice of Opposition is untimely and should be dismissed because the submission of Opposer's Notice and fee were not compliant with Trademark Rule 2.101(d)(4). *Vibe Records, Inc. v. Vibe Media Group LLC*, 88 USPQ2d 1280 (TTAB 2008 – precedential).

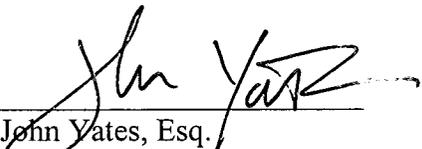
(Implied Agreement)

21. Opposer impliedly agreed to transfer the right to use the trademark INNOCENT SKIN to Applicant under the terms of the May 15, 2007 contract.

(Unclean Hands)

22. Opposer has unclean hands because Opposer knows that Opposer developed no common law or statutory trademark rights in the mark INNOCENT SKIN prior to Applicant's application for registration on June 3, 2008.

Dated: February 11, 2009

By 
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Attorneys for Applicant Morgen Bentsen

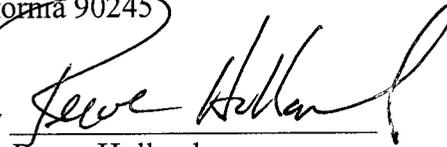
CERTIFICATE OF FIRST CLASS MAILING AND SERVICE

I hereby certify that a true and complete original of Applicant's ANSWER AND AFFIRMATIVE DEFENSES was served by first class mail with sufficient postage prepaid on February 11, 2009, to the Trademark Trial and Appeal Board at 2900 Crystal Drive, Arlington, Virginia 22202-3514, and that a copy of Applicant's ANSWER AND AFFIRMATIVE DEFENSES was served on counsel for Opposer on the same date first class mail with sufficient postage prepaid, to:

Edward Tarver, Esq.
Lauson & Tarver
880 Apollo Street, Suite 301
El Segundo, California 90245

Dated: February 11, 2009

By



Reece Holland
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16000 VENTURA BOULEVARD
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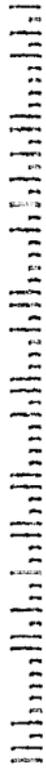
Attn: Trademark Trial and Appeal Board
Commissioner for Trademarks
2900 Crystal Drive

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X 201 NFE 1 B07C 00 02/18/09
FORWARD TIME EXP RTN TO SEND
: COMMISSIONER FOR TRADEMARKS
500 DULANY ST STE 1
ALEXANDRIA VA 22314-5781

RETURN TO SENDER

91436@2762





GREENBERG & BASS LLP
16000 VENTURA BOULEVARD
SUITE 1000
ENCINO, CALIFORNIA 91436

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UNITED STATES POSTAL SERVICE
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Attn: Trademark Trial and Appeal Board
Commissioner for Trademarks
2900 Crystal Drive

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: COMMISSIONER FOR TRADEMARKS
600 DULANY ST STE 1
ALEXANDRIA VA 22314-5791

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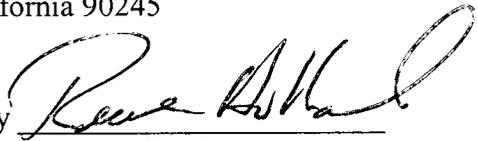


**CERTIFICATE OF FIRST CLASS MAILING AND PROOF OF SERVICE
SERVICE**

I hereby certify that a true and complete original of Applicant's MOTION TO EXTEND TIME FOR APPLICANT'S ANSWER TO BE FILED and of APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES was served by first class mail with sufficient postage prepaid on February 25, 2009, to the Trademark Trial and Appeal Board at the U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451, and that a copy of MOTION TO EXTEND TIME FOR APPLICANT'S ANSWER TO BE FILED and of APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES was served on counsel for Opposer on the same date first class mail with sufficient postage prepaid, to:

Edward Tarver, Esq.
Lauson & Tarver
880 Apollo Street, Suite 301
El Segundo, California 90245

Dated: February 25, 2009

By 
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