

ESTTA Tracking number: **ESTTA282921**

Filing date: **05/08/2009**

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

| | |
|------------------------|---|
| Proceeding | 91189474 |
| Party | Defendant Bernadette Cooper and Joyce Irby |
| Correspondence Address | JAMIE SHELDEN LAW OFFICE OF JAMIE SHELDEN 201A MCCRAY ST STE 305 HOLLISTER, CA 95023-4094 UNITED STATES jamie@justtrademarks.com |
| Submission | Answer |
| Filer's Name | Jamie Shelden |
| Filer's e-mail | jamie@justtrademarks.com |
| Signature | /Jamie Shelden/ |
| Date | 05/08/2009 |
| Attachments | Answer to Opposition KLYMAXX.pdf (4 pages)(62502 bytes) |

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

| | | |
|-----------------------|---|--------------------------|
| Cheryl Cooley, |) | |
| |) | Opposition no.: 91189474 |
| Opposer, |) | |
| |) | Mark: KLYMAXX |
| v. |) | |
| |) | Serial no.: 77/571,759 |
| |) | |
| Bernadette Cooper and |) | |
| Joyce Irby, |) | |
| |) | |
| Applicants. |) | |

ANSWER TO NOTICE OF OPPOSITION

Applicants, Bernadette Cooper and Joyce Irby, respond to the Notice of Opposition (“Notice”) filed by Cheryl Cooley as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Notice, which are therefore denied.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Notice, which are therefore denied.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Notice, which are therefore denied.
4. Applicant admits the allegations of Paragraph 4 of the Notice.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 of the Notice, which are therefore denied.

6. Applicant denies that the Opposer will be damaged by the registration of Applicant's Mark. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 6 of the Notice, which are therefore denied.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of the main portion of Paragraph 7 of the Notice, which are therefore denied.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of the main portion of Paragraph 8 of the Notice, which are therefore denied.

9. Applicant denies the allegations of Paragraph 9 of the Notice.

10. Applicant denies the allegations of Paragraph 10 of the Notice.

11. Applicant denies that Opposer is entitled to the relief set forth in the prayer for relief, or to any relief whatsoever.

12. Applicant denies the allegations of Paragraph 10 of the Notice.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of the Notice, which are therefore denied.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of the Notice, which are therefore denied.

15. Applicant denies the allegations of Paragraph 10 of the Notice.

16. Applicant denies each and every allegation not previously admitted or otherwise qualified.

AFFIRMATIVE DEFENSES

1. Opposer's has failed to state a claim upon which relief can be granted.
2. Opposer's opposition is barred under the doctrine of acquiescence.
3. Applicant hereby gives notice that it intends to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserves the right to amend its answer to assert such additional affirmative defenses.

WHEREFORE, Applicant requests that Opposer's Notice of Opposition be dismissed in its entirety and that Applicant's application proceed to registration.

Respectfully submitted,

Date: May 8, 2009

By: Jamie Shelden

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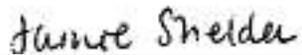
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing:

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

is being served upon Opposer by depositing a copy of the same in the United States mail, first class postage prepaid, addressed as follows:

Jack F. Sherer
99 Park Avenue, 3rd Floor
New York, NY 10016



Jamie R. Shelden