

ESTTA Tracking number: **ESTTA283353**

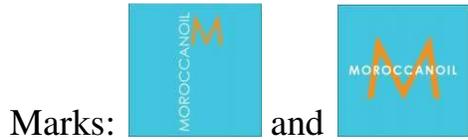
Filing date: **05/12/2009**

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

Proceeding	91189523
Party	Defendant MOROCCANOIL, INC.
Correspondence Address	Mark D. Kremer Conkle, Kremer & Engel PLC 3130 Wilshire Blvd, Suite 500 Santa Monica, CA 90403 m.kremer@conklelaw.com
Submission	Answer
Filer's Name	Annette Kazmerski, Attorney of record
Filer's e-mail	a.kazmerski@conklelaw.com, TM@conklelaw.com
Signature	/AK/
Date	05/12/2009
Attachments	2009-05-12 Answer to Opposition No 91189523 [9998].pdf (10 pages)(51074 bytes)

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

In the Matter of Application Serial Nos. 77/359,584 and 77/359,562



Published in the *Official Gazette* on December 2, 2008.

MOROCCAN GOLD, LLC	§	
	§	
Opposer,	§	
	§	
v.	§	
	§	Opposition No.: 91189523
MOROCCANOIL, INC.	§	
	§	
Applicant.	§	
	§	

ANSWER

Applicant Moroccanoil, Inc. (“Applicant”), by and through its undersigned counsel, hereby answers the Notice of Opposition filed by Opposer Moroccan Gold, LLC (“Opposer”) against Applications Serial Nos. 77/359,584 and 77/359,562 as follows:

1. Applicant admits the allegations set forth in Paragraph 1 of the Notice of Opposition. Applicant also understands that Opposer has done business out of 20 Park Place, Paramus, New Jersey 07652.

2. Applicant admits the allegations set forth in Paragraph 2 of the Notice of Opposition. Applicant also understands that Opposer's "parent" is Fantasia Industries Corporation which also does business out of 20 Park Place, Paramus, New Jersey 07652.

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Notice of Opposition and on that basis denies same.

4. Applicant admits the allegations set forth in Paragraph 4 of the Notice of Opposition.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Notice of Opposition and on that basis denies same.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 6 of the Notice of Opposition and on that basis denies same.

7. Applicant admits the allegations set forth in Paragraph 7 of the Notice of Opposition.

8. Applicant admits the allegations set forth in Paragraph 8 of the Notice of Opposition.

9. Applicant admits the allegations set forth in Paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations set forth in Paragraph 10 of the Notice of Opposition. Applicant filed the subject trademark applications on December 26, 2007.

11. Applicant admits the allegations set forth in Paragraph 11 of the Notice of Opposition.

12. Applicant admits the allegations set forth in Paragraph 12 of the Notice of Opposition.

13. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 13 of the Notice of Opposition and on that basis denies same.

14. Applicant admits that the coined word MOROCCANOIL contains the same letters as the words MOROCCAN and OIL, and denies all other allegations set forth in Paragraph 14 of the Notice of Opposition, including any and all implications and characterizations.

15. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 15 of the Notice of Opposition and on that basis denies same.

16. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 16 of the Notice of Opposition and on that basis denies same.

17. Applicant denies the allegations set forth in Paragraph 17 of the Notice of Opposition.

18. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 18 of the Notice of Opposition and on that basis denies same.

19. Applicant admits that its products contain an amount of argan oil, also known as “argania spinosa kernel oil,” and denies all other allegations set forth in Paragraph 19 of the Notice of Opposition, including any and all implications and characterizations.

20. Applicant admits that its products contain an amount of argan oil, and denies all other allegations set forth in Paragraph 20 of the Notice of Opposition, including any and all implications and characterizations.

21. Applicant admits that argan oil is produced from the kernels of the Argan tree, which can be found in Morocco, among other places. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, including any and all implications and characterizations, set forth in Paragraph 21 of the Notice of Opposition and on that basis denies same.

22. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 22 of the Notice of Opposition and on that basis denies same.

23. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 23 of the Notice of Opposition and on that basis denies same.

24. Applicant admits that its products contain an amount of argan oil and that some of Applicant's marketing materials contains truthful references to same. Applicant denies all other allegations set forth in Paragraph 24 of the Notice of Opposition, including any and all implications and characterizations.

25. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 25 of the Notice of Opposition and on that basis denies same.

26. Applicant denies the allegations set forth in Paragraph 26 of the Notice of Opposition.

27. Applicant denies the allegations set forth in Paragraph 27 of the Notice of Opposition.

28. Applicant denies the allegations set forth in Paragraph 28 of the Notice of Opposition.

29. Applicant repeats and incorporates every response set forth in paragraphs 1 through 28 above, as if fully set forth herein.

30. Applicant denies the allegations set forth in Paragraph 30 of the Notice of Opposition. The mark “MOROCCANOIL” is not descriptive; it is suggestive. Morocco produces and exports many different types of oil, including olive oil, almond oil, petroleum oil, and rose oil. The mark “MOROCCANOIL” does not convey an immediate idea of a line of hair care products containing argan oil, but instead requires some imagination, thought, and/or perception on the part of the consumer to reach a conclusion as to the nature of the goods.

31. Applicant repeats and incorporates every response set forth in paragraphs 1 through 30 above, as if fully set forth herein.

32. Applicant denies the allegations set forth in Paragraph 32 of the Notice of Opposition. The mark “MOROCCANOIL” does not convey an immediate idea of a line of hair care products containing argan oil, but instead requires some imagination, thought, and/or perception on the part of the consumer to reach a conclusion as to the nature of the goods.

33. Applicant repeats and incorporates every response set forth in paragraphs 1 through 32 above, as if fully set forth herein.

34. Applicant denies the allegations set forth in Paragraph 34 of the Notice of Opposition. The mark “MOROCCANOIL” does not convey an immediate idea of a

line of hair care products containing argan oil, but instead requires some imagination, thought, and/or perception on the part of the consumer to reach a conclusion as to the nature of the goods.

AFFIRMATIVE DEFENSES

35. The Notice of Opposition fails to state any claim upon which relief can be granted.

36. Opposer's descriptiveness arguments are moot. In the prosecution of Opposer's application to register the word mark "MOROCCANOIL," Applicant successfully demonstrated that, at a minimum, the word "MOROCCANOIL" has acquired distinctiveness and/or secondary meaning. *See*, Registration No. 3,478,807, granted pursuant to 15 U.S.C. § 1052(f).

37. Opposer will not be damaged by Applicant's mark.

38. Opposer's claims are barred because of laches, estoppel, and/or acquiescence.

39. Opposer's claims are barred based on the doctrine of unclean hands.

WHEREFORE, having fully answered, Applicant prays for judgment against Opposer, dismissing the Notice of Opposition with prejudice, and awarding Applicant such other and further relief as the Board deems just and equitable.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 3130 Wilshire Boulevard, Santa Monica, California 90403-2351.

On May 12, 2009, I served true copies of the following document(s) described as on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Conkle, Kremer & Engel's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 12, 2009, at Santa Monica, California.

/PI/

Prescilla Ingram

SERVICE LIST

JAMES H. DONOIAN
GREENBERG TRAUIG, LLP
230 PARK AVENUE, SUITE 1847
NEW YORK, NY 10166
Phone Number: 212-801-9200
Fax Number: 212-754-8551