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

Proceeding	91190998
Party	Defendant Allison Raskansky
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Date	10/08/2009
Attachments	91190998 response.pdf (7 pages)(31316 bytes)

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

HWAL'BAY BA:J ENTERPRISES, INC.
a tribally chartered corporation of, and
owned by, the Hualapai Indian Tribe.

Opposer,

v.

ALLISON RASKANSKY.

Applicant.

Opposition No. 91190998

Serial No. 77/657,849

Mark: DESTINATIONGRANDCANYON.COM

APPLICANT'S RESPONSE TO NOTICE OF OPPOSITION

ALLISON RASKANSKY, ("Raskansky" or "Applicant"), hereby responds to the Notice of Opposition ("Opposition"), filed by HWAL'BAY BA:J ENTERPRISES, INC. ("Opposer"), and which opposes Serial No. 77/657,849 for the mark DESTINATIONGRANDCANYON.COM, as follows:

1. Answering the introductory paragraph of the Opposition, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations concerning Opposer's business and, therefore, denies the same. Applicant denies the remaining allegations contained therein.

2. Answering Paragraphs 1 - 4 of the Opposition, Applicant admits the allegations contained therein.

3. Answering Paragraph 5 of the Opposition, Applicant denies the allegations contained therein.

4. Answering Paragraph 6 of the Opposition, Applicant admits the allegations contained therein.

5. Answering Paragraph 7 of the Opposition, "services" is not a defined term nor does the paragraph identify whether the "services" are to relate to the Subject Trademark or not, whether they relate to Applicant's business or not, or concern any

other purpose. As such, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

6. Answering Paragraph 8 of the Opposition, Applicant admits the allegations contained therein.

7. Answering Paragraph 9 of the Opposition, Applicant admits that her website first posted information that was viewable to the public on November 2, 2005. Applicant denies the remaining allegations contained there in.

8. Answering Paragraph 10 of the Opposition, Applicant admits that her website was linked to the domain name <destinationgrandcanyon.com> and such use allowed her to continue to develop trademark rights in her DESTINATIONGRANDCANYON.COM domain name. However, Applicant denies the allegation that this was the first time that her trademark rights arose and that use of the DESTINATIONGRANDCANYON.COM mark inured to Opposer's benefit.

9. Answering Paragraph 11 of the Opposition, "meaningful content" is not a defined term. However, Applicant admits that no "content" of Opposer could be accessed by the <destinationgrandcanyon.com> domain name prior to November 2, 2005.

10. Answering Paragraph 12 of the Opposition, Applicant admits the allegations contained therein.

11. Answering Paragraphs 13 and 14 of the Opposition, no time period is given for the allegations contained therein. However, Plaintiff admits that from approximately November 2005 to July 2009, the website found at <destinationgrandcanyon.com> did feature some or all of the materials referenced therein.

12. Answering Paragraph 15 of the Opposition, Applicant admits that pursuant to the Contracts between Applicant and Opposer, Opposer had creative control over the content on the website. Applicant denies the other allegations contained therein.

13. Answering Paragraphs 16 and 17 of the Opposition, Applicant denies the

allegations contained therein.

14. Answering Paragraph 18 of the Opposition, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

15. Answering Paragraph 19 of the Opposition, Applicant denies the allegations contained therein.

16. Answering Paragraph 20 of the Opposition, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

17. Answering Paragraph 21 of the Opposition, Applicant denies the allegations contained therein.

18. Answering Paragraph 22 of the Opposition, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

19. Answering Paragraph 23 of the Opposition, “Opposer’s Trademarks” are not defined and, therefore, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

20. Answering Paragraph 24 of the Opposition, Applicant admits the allegations contained therein.

21. Answering Paragraph 25 of the Opposition, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations concerning Opposer’s ownership of attractions contained therein and, therefore, denies the same. Applicant denies the remaining allegations contained therein.

22. Answering Paragraph 26 of the Opposition, “Opposer’s Marks” and its “services” are not defined therefore Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

23. Answering Paragraph 27 of the Opposition, “Opposer’s Marks” and

“services” are not defined and, therefore, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

24. Answering Paragraph 28 of the Opposition, “Opposer’s Marks” are not defined and Opposer has not alleged that it owns a DESTINATION GRAND CANYON mark, therefore Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

25. Answering Paragraphs 29 and 30 of the Opposition, Applicant denies the allegations contained therein.

26. Answering Paragraph 31 of the Opposition, Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, denies the same.

27. Answering Paragraphs 32, 33 and 34 of the Opposition, Applicant denies the allegations contained therein.

28. Answering Paragraph 35 of the Opposition, Applicant admits she refused to sign any such agreements. Applicant denies the remaining allegations contained therein.

29. Answering Paragraphs 36, 37 and 38 of the Opposition, Applicant admits that Robert Mudd sent a letter to Opposer on January 27, 2009 and the letter speaks for itself. Applicant denies the remaining allegations contained therein.

30. Answering Paragraph 39 of the Opposition, Applicant admits filing the trademark application on January 29, 2009. Applicant denies the remaining allegations contained therein.

31. Answering Paragraph 40 of the Opposition, Applicant admits filing the signed declaration but denies having knowledge of any rights claimed by Opposer. Applicant denies the remaining allegations contained therein.

32. Answering Paragraphs 41 and 42 of the Opposition, Applicant denies the allegations contained therein.

33. Answering the WHEREFORE clause, Applicant denies the Opposer is entitled to the relief sought.

AFFIRMATIVE DEFENSES

1. Applicant repeats, realleges and incorporates herein each and every allegation of the preceding paragraphs as if fully set forth herein.

2. Opposer does not have standing to bring this Opposition because it is not the owner of a valid DESTINATIONGRANDCANYON.COM or similar trademark.

3. Opposer's Opposition is barred because it does not have priority of use of a DESTINATIONGRANDCANYON.COM or similar mark.

4. Opposer's Opposition is barred by the doctrine of unclean hands because it is not the owner of a DESTINATIONGRANDCANYON.COM mark and filed this Opposition with the bad faith intent to usurp Applicant's rights and trade on the goodwill of Applicant's mark.

5. Opposer's Opposition is barred under the doctrine of estoppel because Opposer brought the proceeding with unclean hands.

6. Opposer has not pleaded any law or facts that justify the opposition to the Applicant's DESTINATIONGRANDCANYON.COM mark.

7. Opposer failed to state a claim upon which relief can be granted.

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Applicant respectfully requests:

- (a) That the Opposition be denied in its entirety;
- (b) That judgment be entered in favor of Applicant;
- (c) That Applicant be granted such other and further relief as the Board deems just and proper.

DATED: October 8, 2009.

GREENBERG TRAURIG

/s/ Laraine M. I. Burrell

Mark G. Tratos

Laraine M. I. Burrell

3773 Howard Hughes Parkway

Suite 400 North

Las Vegas, Nevada 89169

Counsel for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2009, I served the foregoing Applicant's Response to Notice of Cancellation on:

J. Damon Ashcraft
Snell & Wilmer LLP
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2202

Attorney for Opposer

by causing a full, true, and correct copy thereof to be sent by the following indicated method or methods, on the date set forth below:

- by mailing in a sealed, first-class postage-prepaid envelope, addressed to the last-known office address of the attorney, and deposited with the United States Postal Service at Las Vegas, Nevada.
- by hand delivery.
- by sending via overnight courier in a sealed envelope.
- by faxing to the attorney at the fax number that is the last-known fax number.
- by electronic mail to the last known e-mail address.

/s/ Cynthia L. Ney

An employee of Greenberg Traurig