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

Proceeding	91191251
Party	Defendant RML Jackson, LLC
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial Nos. 77/713,053 and 77/713,054
Filed: April 13, 2009
For the Marks: BORN ROGUE and BORNROGUE in International Class 25
Published in the Official Gazette: July 21, 2009

Excelled Sheepskin & Leather Coat Corp.,)
Opposer,)
vs.)
RML Jackson, LLC,)
Applicant.)

Opposition No. 91191251

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

**RML JACKSON, LLC'S ANSWER TO EXCELLED SHEEPSKIN & LEATHER COAT
CORP.'S NOTICE OF OPPOSITION**

Applicant RML Jackson, LLC ("RML" or "Applicant"), by its undersigned counsel, K&L Gates LLP, hereby files its Answer to Notice of Opposition filed by Excelled Sheepskin & Leather Coat Corp. ("Opposer"), as follows:

ANSWER: With respect to Petitioner's unnumbered paragraphs, Applicant denies that Opposer would be damaged by the registration of the above-identified marks.

1. Opposer is the owner of all rights, title and interest in and to a family of marks containing the word ROGUE ("Opposer's Marks") for clothing.

ANSWER: Applicant denies the allegations contained in Paragraph 1.

2. Opposer's Marks have become well-known and famous through extensive use and advertising, and they have become a highly valuable symbol of Opposer's goodwill.

ANSWER: Applicant denies the allegations contained in Paragraph 2.

3. Since at least as early as 1999, Opposer has been using the mark ROGUE in connection with the advertising and sale of clothing.

ANSWER: Applicant denies the allegations contained in Paragraph 3.

4. The Patent and Trademark Office has recognized Opposer's exclusive right to use its Mark by issuing the following registrations:

Reg. No. 3346559, ROGUE, dated December 4, 2007

Reg. No. 2815985, REILLY OLMES ROGUE LEATHER, dated February 24, 2004

Registration No. 2790074, ROGUE LEATHER BY REILLY OLMES, dated December 9, 2003

ANSWER: Applicant admits only that Opposer is listed as the registrant of record for the registrations listed in Paragraph 4 corresponding to Registration Nos. 3,346,559, 2,815,985 and 2,790,074. Applicant denies the remaining allegations contained in Paragraph 4.

5. Opposer's registrations are valid and they provide prima facie evidence of Opposer's ownership of and exclusive right to use Opposer's Marks in commerce.

ANSWER: Applicant denies the allegations contained in Paragraph 5.

6. Opposer has developed a well known business reputation throughout the United States and Opposer's Marks have been and continues to be widely publicized through substantial advertising expenditures.

ANSWER: Applicant denies the allegations contained in Paragraph 6.

7. As a result of the substantial advertising expenditures and extensive sales of services, Opposer's Marks have become well known and famous as a distinctive source indicator and valuable symbol of Opposer's goodwill.

ANSWER: Applicant denies the allegations contained in Paragraph 7.

8. Notwithstanding Opposer's prior established rights in its Marks, Applicant filed the above referenced applications for registration of the marks BORN ROGUE and BORNROGUE for clothing, footwear and accessories.

ANSWER: Applicant admits only that on April 13, 2009, Applicant filed the above-referenced applications to register the marks BORN ROGUE and BORNROGUE for "Beachwear; Belts; Blouses; Boots; Bottoms; Caps; Coats; Dresses; Footwear; Foul weather gear; Gloves; Hats; Headwear; Hosiery; Jackets; Jeans; Lingerie; Mittens; Neckties; Neckwear; Nightwear; Pajamas; Pants; Pullovers; Rainwear; Robes; Scarves; Shirts; Shoes; Shorts; Skirts; Skorts; Slippers; Sneakers; Socks; Sweat shirts; Sweaters; Swimwear; T-shirts; Ties; Track suits;

Undergarments; Vests; Visors.” Except as expressly stated herein, Applicant denies the allegations contained in Paragraph 8.

9. Opposer has used ROGUE continuously on or in connection with its goods in interstate commerce since long prior to Applicant’s filing date and any first use date that Applicant may claim.

ANSWER: Applicant denies the allegations contained in Paragraph 9.

10. Upon information and belief, Applicant made no use of its alleged marks in commerce prior to the filing date of its application.

ANSWER: Applicant admits only that its Application Serial Nos. 77/713,053 and 77/713,054 were filed on an intent-to-use basis. Applicant denies the remaining allegations contained in Paragraph 10.

11. Applicant had actual knowledge of Opposer’s prior rights in Opposer’s Marks before Applicant filed its applications and Applicant had even place orders for products bearing these marks prior to filing.

ANSWER: Applicant denies the allegations contained in Paragraph 11.

12. Applicant had also filed an application for registration of the mark ROGUE, which has been denied because it was deemed confusingly similar to Opposer mark ROGUE.

ANSWER: Applicant admits only that it has filed an application for registration of the mark ROGUE for goods in Class 25, which has been assigned Application Serial No. 77/698,597. The Trademark Office records speak for themselves. Except as expressly stated herein, Applicant denies the allegations contained in Paragraph 12.

LIKELIHOOD OF CONFUSION - § 2(d)

13. The marks that Applicant seeks to register are identical to or closely resemble Opposer’s Mark that the use and registration thereof is likely to cause confusion, mistake and deception as to the source or origin of Applicant’s goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer’s Marks.

ANSWER: Applicant denies the allegations contained in Paragraph 13.

14. The goods of Applicant are so closely related to the goods of Opposer that the public is likely to be confused, to be deceived and to assume erroneously that Applicant’s goods are those of Opposer or that Applicant is in some way connected with or sponsored by or affiliated with Opposer, all to Opposer’s irreparable damage.

ANSWER: Applicant denies the allegations contained in Paragraph 14.

15. Likelihood of confusion in this case is enhanced by the fact that prospective purchasers of Applicant's goods are likely to associate Opposer's Mark with goods sold, approved or endorsed by Opposer; moreover, individuals purchasing Applicant's goods are prospective purchasers of Opposer's products and services.

ANSWER: Applicant denies the allegations contained in Paragraph 15.

16. Applicant is not affiliated or connected with nor it is approved, endorsed or sponsored by Opposer.

ANSWER: Applicant admits that it is not affiliated or connected with or approved, endorsed or sponsored by Opposer.

17. Similarly, Opposer has not approved any goods sold or intended for sale by Applicant under the marks BORN ROGUE or BORNROGUE, nor has Opposer granted Applicant permission to use said marks.

ANSWER: Applicant denies that any approval or permission by Opposer is required, and as such, denies the allegations contained in Paragraph 17.

DECEPTION/FALSE SUGGESTION OF CONNECTION - § 2(a)

18. Applicant's mark so closely resembles Opposer's Mark that they are likely to cause deception in violation of Section 2(a) of the Trademark Act, in that said marks misdescribe the nature or origin of the goods, purchasers are likely to believe that the misdescription actually describes the nature or origin of the goods, and this is likely to materially alter purchasers' decisions to acquire Applicant's goods.

ANSWER: Applicant denies the allegations contained in Paragraph 18.

19. Applicant's alleged marks so closely resemble Opposer's Marks that they falsely suggest a connection with Opposer in violation of Section 2(a) of the Trademark Act, because Applicant's alleged marks point uniquely to Opposer, and purchasers will assume that goods sold under Applicant's alleged marks are connected with Opposer.

ANSWER: Applicant denies the allegations contained in Paragraph 19.

20. If Applicant's alleged marks are used on goods of the type described in its applications, Applicant's alleged marks will cause purchasers to refrain from purchasing Opposer's authorized goods based on the mistaken assumption that Opposer is endorsing, attempting to promote, or encouraging the sale of Applicant's goods by permitting Applicant to use said marks.

ANSWER: Applicant denies the allegations contained in Paragraph 20.

21. Applicant's marks are deceptive in that they falsely suggest a connection with, or approval by, Opposer.

ANSWER: Applicant denies the allegations contained in Paragraph 21.

22. Use and registration by Applicant of the marks will deprive Opposer of the ability to protect its reputation, persona and goodwill.

ANSWER: Applicant denies the allegations contained in Paragraph 22.

23. Likelihood of damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's goods will attribute those defects to Opposer and this will injure Opposer's reputation and goodwill.

ANSWER: Applicant denies the allegations contained in Paragraph 23.

24. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark and registration should be refused.

ANSWER: Applicant denies the allegations contained in Paragraph 24.

AFFIRMATIVE DEFENSES

1. There is no likelihood of confusion between Opposer's marks and Applicant's BORN ROGUE and BORNROGUE marks because the marks are not similar in appearance, sound and commercial impression.

2. Opposer does not have exclusive rights in and to the mark ROGUE for clothing.

3. With respect to Opposer's 2(a) claim, Opposer has failed to state a claim upon which relief can be granted.

4. There is no likelihood of deception because Applicant's marks do not misdescribe the character, quality, function, composition or use of the goods/services.

5. There is no likelihood of a false suggestion of a connection because Applicant's marks do not closely resemble Opposer's marks.

6. There is no likelihood of a false suggestion of a connection because Opposer's marks do not point uniquely and unmistakably to Opposer.

7. There is no likelihood of a false suggestion of a connection because Opposer's marks are not of sufficient fame such that, when the BORN ROGUE and BORNROGUE used in connection with Applicant's goods, a connection with Opposer would be presumed by customers.

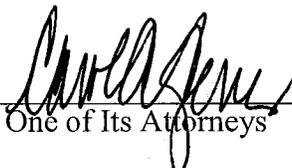
8. Applicant hereby gives notice that it intends to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserves the right to amend its answer to assert such additional affirmative defenses.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed with prejudice.

Dated: November 5, 2009.

RML JACKSON, LLC
Applicant

By: _____


One of Its Attorneys

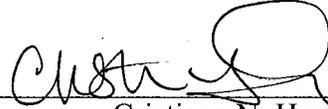
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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that she caused a copy of **RML JACKSON, LLC'S ANSWER TO EXCELLED SHEEPSKIN & LEATHER COAT CORP.'S NOTICE OF OPPOSITION** to be served upon:

Michael A. Grow, Esq.
Arent Fox LLP
1050 Connecticut Avenue, NW
Washington, DC 20036

by first class mail, proper postage prepaid, this 5th day of November, 2009.



Cristiana N. Huynh, Esq.