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Filing date: **12/22/2009**

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

Proceeding	91191309
Party	Defendant ICI Services, LLC
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Submission	Answer
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Date	12/22/2009
Attachments	Answer12-22-2009.pdf ( 4 pages )(68577 bytes )

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

In the Matter of Application No. 77592570

MARK: ICI ICI SERVICES and design

David Aberizk,	)	
	)	
Opposer,	)	Opposition No. 91191309
	)	
v.	)	
	)	
ICI Services Corporation	)	
	)	
Applicant.	)	
	)	

**ANSWER TO AMENDED NOTICE OF OPPOSITION**

NOW COMES ICI Services Corporation (“Applicant”), before this honorable board and hereby answers the Opposition to Applicant’s United States Application Serial No. 77/592,570 for the mark ICI ICI SERVICES and design, against which an amended notice of opposition has been filed by David Aberizk (“Opposer”), as follows:

**RESPONSE**

1. Applicant admits that it filed a use-based service mark application on October 14, 2008, which was published for opposition on July 21, 2009 and recited dates of first use of June 2006. However, the services identified at the time of filing the application differ from those listed in this paragraph, and on that basis, Applicant denies the remainder of the allegations in this paragraph.

2. Applicant admits that the records of the U.S. Trademark Office indicate that Opposer is the listed owner of U.S. Registration No. 3,107,760 (the '760 registration) and that the '760 registration recites the stated services, the stated class, the stated date of first use and the stated issue date. However, Applicant is without knowledge as to the ownership of the '760 registration, and on that basis, denies that Opposer owns the '760 registration.

3. Denied.

4. Applicant is without knowledge as to any details of any use by Opposer of the mark ICI, and on that basis denies the allegations of this paragraph.

5. Applicant denies the allegations of the first sentence of this paragraph. Applicant is without knowledge as to the exact nature of any services offered by Opposer under any mark, and on that basis, denies the allegations of the second sentence of this paragraph.

6. Denied.

7. Applicant is without knowledge as to the exact nature of any services offered by Opposer under any mark, and on that basis, denies the allegations of this paragraph.

8. Applicant denies that Opposer's marks have attained substantial goodwill, and Applicant is without knowledge as to, and thus denies, the remaining allegations of this paragraph.

9. Denied.

10. Denied.

11. Applicant admits the allegations of the first sentence of this paragraph, and denies the allegations of the second sentence of this paragraph.

The remaining WHEREFORE statement is a prayer for relief and is not an allegation. Therefore, it requires no response.

**AFFIRMATIVE DEFENSES**

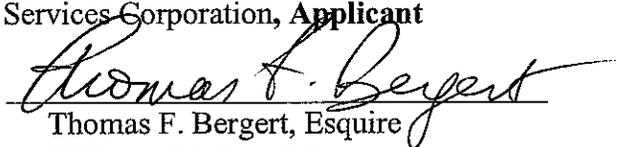
1. Opposer is barred by the doctrine of laches from asserting an opposition to the mark in the subject application.

2. On information and belief, Applicant's commercial use of the ICI term in its mark pre-dates any commercial use by Opposer of the mark in Registration Number 3,107,760.

3. Applicant reserves the right to assert further affirmative defenses to the allegations of Opposer as may be warranted by discovery in this matter or any amended pleading permitted under the rules.

Date: December 22, 2009

ICI Services Corporation, Applicant

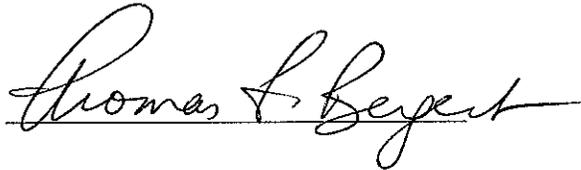
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**CERTIFICATE OF SERVICE**

On December 22, 2009, a true and correct copy of the foregoing **ANSWER TO AMENDED NOTICE OF OPPOSITION** was duly served by first class mail, postage pre-paid, to counsel for Opposer:

Barry F. Soalt, Esq.  
Procopio, Cory, Hargreaves & Savitch LLP  
530 B Street, Suite 2100  
San Diego, CA 92101

A handwritten signature in cursive script, reading "Thomas F. Beget", written over a horizontal line.