

ESTTA Tracking number: **ESTTA360865**

Filing date: **07/30/2010**

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

Proceeding	91195424
Party	Defendant AMERICAN NATURAVIT, INC.
Correspondence Address	AMERICAN NATURAVIT, INC. 7274 NW 66TH ST # 110 MIAMI, FL 33166-3008 onel@sunshinenaturals.net
Submission	Answer
Filer's Name	Michael E. Tschupp
Filer's e-mail	trademark@etlaw.com
Signature	/Michael Tschupp/
Date	07/30/2010
Attachments	Microsoft Word - Answer to Notice of Opposition - American Naturavit.pdf (4 pages)(22253 bytes)

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

In the Matter of:

Application Serial No.: 77/869,057
Filed: November 10, 2009
Trademark: SUNSHINE NATURALS and Design

Nature's Sunshine Products, Inc.,

Opposition No. 91195424

Opposer,

vs.

American Naturavit, Inc.

Applicant.

ANSWER AND AFFIRMATIVE DEFENSES

Applicant, American Naturavit, Inc. ("Applicant"), by and through undersigned counsel, hereby responds to the Notice of Opposition filed by Nature's Sunshine Products, Inc. ("Opposer") as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 and therefore denies same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 and therefore denies same.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 and therefore denies same.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 and therefore denies same.

5. Applicant admits filing Application Ser. No. 77/869,057, which document speaks for itself, and denies any allegations set forth in paragraph 5, or in Opposer's Exhibit B, inconsistent therewith.

6. Applicant denies the allegations set forth in paragraph 6.

7. Applicant denies all allegations in Opposer's Notice of Opposition, including allegations made in the Notice of Opposition outside its numbered paragraphs, which have not been expressly admitted or denied above.

FIRST AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer's claim is barred by the doctrine of estoppel.

THIRD AFFIRMATIVE DEFENSE

Opposer's claim is barred by the doctrine of waiver.

FOURTH AFFIRMATIVE DEFENSE

Opposer's claim is barred by the doctrine of acquiescence.

FIFTH AFFIRMATIVE DEFENSE

Opposer's claim is barred by the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE

Opposer's claim is barred by the doctrine of unlawful use because it improperly marks its products bearing the trademarks it relies upon in its Notice of Opposition, thereby rendering such trademarks unenforceable at law.

SEVENTH AFFIRMATIVE DEFENSE

Opposer's claim is barred by the doctrine of unclean hands because it improperly marks its products bearing the trademarks it relies upon in its Notice of Opposition, thereby rendering such trademarks unenforceable as a matter of equity.

AFFIRMATIVE DEFENSES RESERVED

Opposer reserves the right to raise such other and further affirmative defenses as may be supported by facts discovered during the course of this proceeding.

WHEREFORE, for the foregoing reasons, Applicant respectfully requests that Opposer's Notice of Opposition be dismissed and that Application Ser. No. 77/869,057 proceed to registration.

Respectfully submitted,

ESPINOSA | TRUEBA PL
Attorneys for Applicant
3001 SW 3rd Avenue
Miami, Florida 33129
Telephone: (305) 854-9000
Facsimile: (305) 285-5555

Dated: July 30, 2010

By: /s/ Michael Tschupp
Jorge Espinosa
Michael Tschupp (Reg. No. 55,895)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is being served by delivering a true and correct copy of same via First Class Mail delivery to attorney for Opposer, Michael E. Mangelson, Esq. at Stoel Rives LLP, One Utah Center, 201 South Main Street, Suite 1100, Salt Lake City, Utah 84111 on this 30th day of July, 2010.

/s/ Michael Tschupp
Michael Tschupp