ESTTA Tracking number: **ESTTA399336**
Filing date: **03/22/2011**

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

Proceeding	91195724
Party	Defendant Robert A. Casey, Ajmar S. Johal
Correspondence Address	ROBERT A. CASEY 52 WOODVIEW DR HOWELL, NJ 07731-3825 UNITED STATES casey77@optonline.net
Submission	Other Motions/Papers
Filer's Name	Robert A. Casey
Filer's e-mail	casey77@optonline.net
Signature	/Robert A. Casey/
Date	03/22/2011
Attachments	Answer Pg1.pdf (1 page)(6737032 bytes) answer Pg2.pdf (1 page)(6737032 bytes) Answer Pg3.pdf (1 page)(6737032 bytes)

In the USPTO before the Trademark Trial and Appeal Board

In the matter of Trademark serial No. 77929917
Mark: MS. Menthol

British American Tobacco Italia SPA- Opposer Petitioner V. Mr. Robert A. Casey and Mr. Ajmar S. Johal Registrant

Opposition No. 91195724

REGISTRANT'S ANSWER AND AFFIRMITIVE DEFENSE

COMES NOW, registrant files his Answer in Affirmative Defense to the Petition to Cancel as follows:

1. Registrant totally unaware MS existed in Europe.
2. Understand opposer has filed for Trademark 6 months after I filed.
3. Realize.
4. Admit.
5. Registrant is without sufficient information therefore denies.
6. Admit.
7. Admit not presently engaged, but do intend to be engaged in manufacture of cigarettes.
8. Not true
9. Understood opposer repeats.
10. Registrant is without sufficient information therefore denies.

11. Famous Mark Doctrine does not apply. Mark MS is not common and totally unknown.

12. Registrant is without sufficient information therefore denies.

13. Registrant is without sufficient information therefore denies.

14. Registrant is without sufficient information therefore denies.

15. I see that opposer repeats his allegation.

16. Registrant is without sufficient information therefore denies.

AFFIRMITIVE DEFENSE

My affirmative defense is "Trademark Fair Use" and also that the petitioner's brand does not qualify under "famous Mark's Doctrine".

I, Robert A. Casey am the authorized representative of Mr. Johal and have power of attorney to execute such documents on Mr. Johal's behalf.

Registrant respectfully requests that cancellation proceeding be dismissed.

Sincerely,

ROBERT A.CASEY

Robert A. Casey
52 Woodview Drive
Howell, NJ 07731
Casey77@optonline.net
(732) 836-9040

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this Answer and Affirmative Defense was filed today, March 22, 2011 on the electronic system for the Trademark Trial and Appeals for the United States Patent and Trademark Office.

Robert A. Casey

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Answer and Affirmative Defenses to the Petition to Cancel Registration No. 77929917 for MS. Menthol was sent certified mail March 24, 2011

Paolo A. Strino
475 Park Avenue South
15th Floor
New York, New York 10016
pstrino@lmiplaw.com

Robert A. Casey
March 22, 2011