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

Proceeding	91195927
Party	Defendant Matt Mushet, Esq.
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Submission	Answer
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Date	09/07/2010
Attachments	ANSWER.pdf ( 5 pages )(17951 bytes )

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

THE TRUSTEES OF THE WATERMARK  
UNIT TRUST TRADING AS WATERMARK  
PATENT AND TRADEMARK ATTORNEYS,

Opposer,

v.

MATT MUSHET,

Applicant.

Opposition No. 91195927

Application Serial No. 77968466

Mark: WATERMARK

**ANSWER TO NOTICE OF OPPOSITION**

The following is the Answer of Applicant Matt Mushet (“Applicant”), owner of Federal Trademark Application Serial No. 77968466 for the mark WATERMARK (hereinafter “Applicant’s mark”), to the Notice of Opposition filed on August 4, 2010 by THE TRUSTEES OF THE WATERMARK UNIT TRUST TRADING AS WATERMARK PATENT AND TRADEMARK ATTORNEYS (“Opposer”) and assigned Opposition No. 91195927.

Applicant hereby responds, solely for the purpose of this proceeding, to each of the grounds set forth in the Notice of Opposition, as follows:

1a. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 1a of the Notice of Opposition. Because Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

1b. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 1b of the Notice of Opposition. Because Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

1c. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 1c of the Notice of Opposition. Because Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

1d. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 1d of the Notice of Opposition. Because Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

1e. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 1e of the Notice of Opposition. Because Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

2. Admitted.

3. Applicant admits that Opposer is the owner of pending application Serial No. 85069340 filed on June 23, 2010. Applicant is without knowledge or information sufficient to form a belief as to whether the Examiner in charge of that application is likely to identify Applicant's prior application Serial No. 77968466 as a potential basis for refusal under Section 2(d).

4. Applicant admits that if Applicant is granted the registration herein opposed, Applicant would obtain thereby at least a prima facie exclusive right to the use of Applicant's word mark for Applicant's services. Applicant denies that such a registration

would be a source of damage and injury to Opposer and would wrongfully hinder Opposer's use and registration of Opposer's mark.

5. Applicant denies that Applicant's mark when used for Applicant's services, is likely to cause confusion with Opposer's mark for Opposer's services. Applicant denies that Opposer is the prior user of Opposer's mark. Applicant denies that Applicant is not entitled to the registration or the exclusive use of Applicant's mark for Applicant's services.

FURTHERMORE, Applicant sets forth the following in support of its defense:

6. Upon information and belief, Registration of Opposer's pending application would be invalid.

7. Upon information and belief, clients of Opposer's services are sophisticated clientele.

8. Upon information and belief, clients of Applicant's services are sophisticated clientele.

9. Applicant's mark and Opposer's mark are not likely to cause confusion, mistake or deception as to the source of Opposer's services.

10. Opposer has failed to use any trademark or proprietary rights it may have in its alleged trademarks in the United States of America.

11. Opposer has failed to adequately provide notice by way of marking any trademark or proprietary rights it may have in its alleged trademarks.

Applicant hereby appoints Matt Mushet, a member of the Bar of the State of California, at the firm of:

Watermark Patent & Trademark, P.C.  
PO BOX 131291  
Carlsbad, CA 92013  
Tel: (714) 654-2766

to act as attorney in the matter identified above, to prosecute said opposition, to transact all business in the United States Patent & Trademark Office and in the United States courts connected with the opposition, to sign his name to all papers which are hereinafter to be filed in connection therewith, and to receive all communication relating to the same.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board deny the Opposition and permit registration of Applicant's word mark in Application Serial No. 77968466 in the United States Patent and Trademark Office.

A duplicate copy of this Answer to Notice of Opposition has been sent via First Class Mail to counsel for Opposer on August 30, 2010.

Date: September 7, 2010

Respectfully Submitted,

By: /MattMushet/  
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## CERTIFICATE OF SERVICE

I hereby certify that true copies of the Answer to Notice of Opposition were deposited as First Class Mail with the United States Postal Service on September 7, 2010 to Counsel for Opposer at the following address:

Stephen Samuels  
Samuels & Hiebert LLC  
Two International Place, 23<sup>rd</sup> Floor  
Boston, MA 02110-4104

By: /MattMushet/  
Matt Mushet, Esq.