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Filing date: **12/16/2010**

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

Proceeding	91197289
Party	Defendant Sunne & LaBouff, LLP
Correspondence Address	Sanford J. Asman Law Office of Sanford J. Asman 570 Vinington Court Atlanta, GA 30350-5710 sandy@asman.com
Submission	Answer
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Filer's e-mail	sandy@asman.com
Signature	/sanford j. asman/
Date	12/16/2010
Attachments	Answer.pdf (23 pages)(3500858 bytes)

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

In re Application of : Sunne Law, P.C.
Serial No. : 77/895,152
Filed : December 16, 2009
Mark : SUPERHERO LAWYERS
Published Official Gazette : May 11, 2010

DC COMICS and
MARVEL CHARACTERS, INC.,

Opposers,

v.

SUNNE LAW, P.C.

Applicant.

Opposition No. 91197289

ANSWER TO NOTICE OF OPPOSITION

Sunne Law, P.C., a professional corporation of Georgia (“Applicant”), by and through its undersigned attorney, hereby files its Answer to DC Comics and Marvel Characters, Inc.’s (collectively, “Opposer”) Notice of Opposition, respectfully showing as follows:

1. Applicant admits the allegations in Paragraph 1 of the Notice of Opposition.
2. Applicant admits that application Ser. No. 77/895,152 (“the Application”) was filed by Sunne & LaBouff, LLP to register the word mark “Superhero Lawyers” (“Mark”) for “legal services” in International Class 045, and Applicant admits that the Application was assigned to Celia T. Sunne, P.C. on June 17, 2010 as shown by the Notice of Recordation of Assignment Document (Reel 004227/Frames 0018-0021), a true copy of which is annexed hereto as Exhibit 1. Applicant denies that Celia T. Sunne, P.C. assigned the Application to “Sunne Law, PC”

[sic], as Sunne Law, P.C. is the same professional corporation as Celia T. Sunne, P.C., but for the name change which is a matter of public record as it was recorded in the U.S. Patent and Trademark Office on July 2, 2010, at Reel 004236/Frames 0134-0137, as shown by Exhibit 2 hereto. As Sunne & LaBouff, LLP was a limited liability partnership, and as Sunne Law, P.C. is a professional corporation (formerly known as Celia T. Sunne, P.C.), the allegations regarding Ms. Celia T. Sunne as being, or having been, “the principal of Applicant, ... the principal of Celia T. Sunne, PC [sic] and a principal of Sunne & LaBouff, LLP, Sunne Law, PC [sic] and its alleged predecessors-in-interest” is factually inaccurate and makes no legal sense, wherefore those allegations are denied. Further, the statement as to the collective reference to those entities as being the “Applicant” is without factual or legal basis, in that the Applicant is Sunne Law, P.C., as shown by all relevant records within the U.S. Patent and Trademark Office.

Accordingly, such statements are denied as being factually and legally absurd. Consequently, as used herein the term “Applicant” refers to *solely* to the applicant of application Ser. No. 77/895,152, *i.e.*, Sunne Law, P.C. To the extent that confusion is created by the different reference to “Applicant”, such confusion rests solely with Opposer’s cavalier failure to act in a factually and legally proper manner.

3. To the extent that the allegations of Paragraph 3 relate to the use in commerce by Applicant and its predecessor-in-interest (*i.e.*, Sunne & LaBouff, LLP), the allegations are admitted.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 4 of the Notice of Opposition and, therefore, denies the same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 5 of the Notice of Opposition and, therefore, denies the same.

6. Applicant admits that the registrations cited in Paragraph 6 of the Notice of Opposition were shown to be registered on the dates specified in the Notice of Opposition, although Applicant has no personal knowledge as to those alleged events. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 6 of the Notice of Opposition, and, therefore, denies the same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Notice of Opposition and, therefore, denies the same.

8. In that the allegations in Paragraph 8 are “all inclusive” whereas the specific registrations referenced in Paragraph 6 of the Notice of Opposition are to specific *goods*, Applicant denies the allegations in Paragraph 8 of the Notice of Opposition. Further, as Applicant is a professional corporation providing *real* “legal services” through one or more duly admitted members of the bar, and, as such, Applicant can legally perform services on behalf of *real* clients, for which bar membership is required, as opposed to providing *goods* depicting *fictional* characters; and whereas Opposer is not known to be licensed to practice law in *any* jurisdiction, nor is Opposer able to provide legal services in *any* jurisdiction, and whereas Applicant does not sell *any* of the *goods* referred to in *any* of the registrations set forth in Paragraph 6 of the Notice of Opposition, and whereas Opposer cannot legally provide *any* of the services to *any* real clients, the statements contained in the last sentence of Paragraph 8 of the Notice of Opposition are factually and legally ludicrous (Notably, undersigned is embarrassed that any member of the bar would

even make such frivolous, unfounded, and legally inaccurate allegations in the representation of any client.). As to any remaining allegations contained in Paragraph 8 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, therefore, denies the same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 9 of the Notice of Opposition and, therefore, denies the same.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 10 of the Notice of Opposition and, therefore, denies the same.

11. Applicant denies the allegations set forth in Paragraph 11 of the Notice of Opposition. Further, in that Opposer cannot legally provide “legal services” there is no conceivable way in which Opposer could be damaged by Applicant’s use of the Mark identifying Applicant as the source for such services.

12. Applicant denies the allegations set forth in Paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations set forth in Paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations set forth in Paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations set forth in Paragraph 15 of the Notice of Opposition.

Further, while Applicant admits that the specimen shown in Exhibit “B” of the Notice of Opposition was submitted by Applicant’s predecessor-in-interest, the only relevant portion of the specimen corresponds to the word mark sought to be registered, *i.e.*, the words (and Mark) “Superhero Lawyers”. Applicant denies, as legally irrelevant, any allegations relating to the characters included in the specimen.

16. Applicant admits that the web page shown in Exhibit “C” of the Notice of Opposition was used by Applicant’s predecessor –in-interest, but Applicant denies the remaining allegations set forth in Paragraph 16 of the Notice of Opposition. Further, in that Exhibit “C” of the Notice of Opposition was not used by Applicant, and in that Exhibit “C” of the Notice of Opposition does not show use of the Mark, Exhibit “C” of the Notice of Opposition is not relevant to the present proceeding.

17. Applicant admits that the web page shown in Exhibit “D” of the Notice of Opposition has been used by Applicant. However, as the Mark sought to be registered is the word mark “Superhero Lawyers”, Applicant specifically denies that any alleged similarity between any characters on any web page are legally relevant to the present matter. Further, Applicant affirmatively represents that the dog, “Cooper”, depicted in Exhibit “D” of the Notice of Opposition is the actual pet Airedale dog belonging to Celia T. Sunne, Esq., a true photo of which (along with various artist’s renditions) is annexed hereto as Exhibit 3. Accordingly, any alleged likeness to any other dog, real or fictional, is coincidental, and is, in any event, totally irrelevant, as the Mark sought to be registered is (once again) the word mark “Superhero Lawyers”.

18. In that the Mark sought to be registered is the word mark “Superhero Lawyers”, Applicant denies that the chart shown in connection with Paragraph 18 of the Notice of Opposition illustrates anything relevant to the present matter.

19. In that Applicant expressly denies that the word mark, “Superhero Lawyers”, sought to be registered, is in any way related to the characters depicted in the chart contained in Paragraph 18 of the Notice of Opposition, and Applicant expressly denies the allegations set forth in

Paragraph 19 of the Notice of Opposition as they are totally without any relevance to the word mark “Superhero Lawyers” which is the Mark for which registration is being sought.

20. Applicant denies the allegation contained in Paragraph 20 of the Notice of Opposition. Further, to the extent that Paragraph 20 refers to any allegation relating to “... any objection or fault found with Applicant’s services...”, such baseless, frivolous, unwarranted, defamatory remarks should be struck from the Notice of Opposition.

21. Applicant denies the allegation contained in Paragraph 21 of the Notice of Opposition.

22. In that it is factually and legally incomprehensible that Opposer would state that Applicant’s use of the Mark “Superhero Lawyers” to identify the *real* “legal services” provided by Applicant could be confused with the goods depicting purely *fictional* characters and events provided by Opposer, Applicant denies the allegation contained in Paragraph 22 of the Notice of Opposition.

23. Applicant denies the allegation contained in Paragraph 23 of the Notice of Opposition.

24. Applicant denies the allegation contained in Paragraph 24 of the Notice of Opposition.

25. In that Applicant is without information sufficient to form a belief as to Opposer’s payment of any fees or as to the present or future balance in Opposer’s counsel’s U.S. Patent and Trademark Office Deposit Account, Applicant respectfully denies the allegation contained in Paragraph 25 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

Responding further to the Notice of Opposition, Applicant asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

26. The Notice of Opposition fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

27. Opposer is engaged in trademark misuse in attempting to monopolize the market beyond the boundaries of any purported trademark rights they may have, if any. In particular, “super heroes” depicted in the *goods* sold by Opposer are *fictional* characters who allegedly “bring *fictional* wrongdoers to justice”, notably without providing such *fictional* “wrongdoers” with any of the Constitutional rights or presumptions of innocence that real world lawyers and law firms, including Applicant, are bound by.

THIRD AFFIRMATIVE DEFENSE

28. Opposer has no standing to bring this Opposition as Opposer cannot and will not be damaged by the registration of the subject Mark, as Opposer is legally incapable of providing the “legal services” provided by Applicant.

FOURTH AFFIRMATIVE DEFENSE

29. Opposer’s marks are generic insofar as they no longer signify a source of origin but *fictional* persons having super human strength or other *fictional* super human qualities. Applicant, on the other hand, actually provides very real “super” services to its very real clients.

FIFTH AFFIRMATIVE DEFENSE

30. Applicant reserves the right to assert additional defenses as may be appropriate upon completion of its investigation and discovery.

WHEREFORE, Applicant prays that:

(a) The Notice of Opposition and all claims and causes of action asserted against Applicant be dismissed; and

(b) The Trademark Trial and Appeal Board grant Applicant such other and further relief as this Board deems just and proper.

Dated: December 16, 2010

By: /s/ Sanford J. Asman
Sanford J. Asman
Attorney for Applicant
Sunne Law, PC

Law Office of Sanford J. Asman
570 Vinington Court
Atlanta, Georgia 30350
Phone : 770-391-0215
Fax : 770-668-9144
Email : sandy@asman.com

EXHIBIT 1

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT



UNITED STATES PATENT AND TRADEMARK OFFICE

Facsimile Transmission

To: **Name:** SANFORD J. ASMAN
 Company: 570 VININGTON COURT
 Fax Number: 17706689144
 Voice Phone:

From: **Name:** ASSIGNMENT SERVICES BRANCH
 Voice Phone: 571-272-3350

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

Pg#	Description
1	Cover Page
2	587.TXT
4	Document 1, Batch 2078697

USPTO ASSIGNMENT SYSTEM PROCESSING

Date and time of transmission: Wednesday, June 23, 2010 11:55:56 AM
Number of pages including this cover sheet: 05

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT

**UNITED STATES PATENT AND TRADEMARK OFFICE**UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

JUNE 18, 2010

900164978A

PTAS

SANFORD J. ASMAN
570 VININGTON COURT
ATLANTA, GA 30350UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENTTHE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF
THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS
AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER
REFERENCED BELOW.PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE
INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA
PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD
FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY
CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350.
PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE,
MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 06/17/2010

REEL/FRAME: 004227/0018
NUMBER OF PAGES: 4BRIEF: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL
DOCKET NUMBER: 171923 9010

ASSIGNOR:

SUNNE & LABOUFF, LLP

DOC DATE: 06/17/2010
CITIZENSHIP: GEORGIA
ENTITY: LIMITED LIABILITY
PARTNERSHIP

ASSIGNEE:

CELIA T. SUNNE, P.C.
651 DALLAS STREET
SUITE B
ATLANTA, GEORGIA 30308CITIZENSHIP: GEORGIA
ENTITY: PROFESSIONAL CORPORATIONAPPLICATION NUMBER: 77895152
REGISTRATION NUMBER:FILING DATE: 12/16/2009
ISSUE DATE:

MARK: SUPERHERO LAWYERS

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN BLOCK FORM

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT

004227/0018 PAGE 2

APPLICATION NUMBER: 77652419

FILING DATE: 01/20/2009

REGISTRATION NUMBER: 3660657

ISSUE DATE: 07/28/2009

MARK: TOUGH ADVOCACY COMPASSIONATE COUNSELING

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN BLOCK FORM

THERESA FREDERICK, EXAMINER

ASSIGNMENT SERVICES BRANCH

PUBLIC RECORDS DIVISION

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT

TRADEMARK ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.106/17/2010
900164978

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Sunne & LaBouff, LLP		06/17/2010	Limited Liability Partnership: GEORGIA
RECEIVING PARTY DATA			
Name:	Celia T. Sunne, P.C.		
Street Address:	651 Dallas Street		
Internal Address:	Suite B		
City:	Atlanta		
State/Country:	GEORGIA		
Postal Code:	30308		
Entity Type:	Professional Corporation: GEORGIA		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	3660657	TOUGH ADVOCACY COMPASSIONATE COUNSELING	
Serial Number:	77895152	SUPERHERO LAWYERS	
CORRESPONDENCE DATA			
Fax Number:	(770)668-9144		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	770-391-0215		
Email:	sandy@asman.com		
Correspondent Name:	Sanford J. Asman		
Address Line 1:	570 Vinington Court		
Address Line 4:	Atlanta, GEORGIA 30350		
ATTORNEY DOCKET NUMBER:	171923-9010		
NAME OF SUBMITTER:	Sanford J. Asman		
Signature:	/sanford j. asman/		

OP \$65.00 3660657

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT

Date:	06/17/2010
Total Attachments: 2 source=100617 Assignment#page1.tif source=100617 Assignment#page2.tif	

EXHIBIT 2

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT



UNITED STATES PATENT AND TRADEMARK OFFICE

Facsimile Transmission

To: **Name:** SANFORD J. ASMAN
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From: **Name:** ASSIGNMENT SERVICES BRANCH
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Fax Notes:

Pg#	Description
1	Cover Page
2	216.TXT
4	Document 1, Batch 2095538

USPTO ASSIGNMENT SYSTEM PROCESSING

Date and time of transmission: Monday, July 05, 2010 8:54:50 PM
Number of pages including this cover sheet: 05

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT

**UNITED STATES PATENT AND TRADEMARK OFFICE**UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

JULY 02, 2010

900166130A

PTAS

SANFORD J. ASMAN
570 VININGTON COURT
ATLANTA, GA 30350-5710UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENTTHE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF
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RECORDATION DATE: 07/02/2010

REEL/FRAME: 004236/0134
NUMBER OF PAGES: 4BRIEF: CHANGE OF NAME
DOCKET NUMBER: 171923 9010

ASSIGNOR:

CELIA T. SUNNE, P.C.

DOC DATE: 06/25/2010
CITIZENSHIP: GEORGIA
ENTITY: PROFESSIONAL
CORPORATION

ASSIGNEE:

SUNNE LAW, PC
651 DALLAS STREET, SUITE B
ATLANTA, GEORGIA 30308CITIZENSHIP: GEORGIA
ENTITY: PROFESSIONAL CORPORATIONAPPLICATION NUMBER: 77895152
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MARK: SUPERHERO LAWYERS

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004236/0134 PAGE 2

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FILING DATE: 01/20/2009

REGISTRATION NUMBER: 3660657

ISSUE DATE: 07/28/2009

MARK: TOUGH ADVOCACY COMPASSIONATE COUNSELING

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN BLOCK FORM

LAZENA MARTIN, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT

TRADEMARK ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.107/02/2010
900166130

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	CHANGE OF NAME		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Celia T. Sunne, P.C.		06/25/2010	Professional Corporation: GEORGIA
RECEIVING PARTY DATA			
Name:	Sunne Law, PC		
Street Address:	651 Dallas Street, Suite B		
City:	Atlanta		
State/Country:	GEORGIA		
Postal Code:	30308		
Entity Type:	Professional Corporation: GEORGIA		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	3660657	TOUGH ADVOCACY COMPASSIONATE COUNSELING	
Serial Number:	77895152	SUPERHERO LAWYERS	
CORRESPONDENCE DATA			
Fax Number:	(770)668-9144		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	770-391-0215		
Email:	sandy@asman.com		
Correspondent Name:	Sanford J. Asman		
Address Line 1:	570 Vinington Court		
Address Line 4:	Atlanta, GEORGIA 30350-5710		
ATTORNEY DOCKET NUMBER:	171923-9010		
NAME OF SUBMITTER:	Sanford J. Asman		
Signature:	/sanford j. asman/		

OP \$65.00 3660657

TO: SANFORD J. ASMAN COMPANY: 570 VININGTON COURT

Date:

07/02/2010

Total Attachments: 3

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EXHIBIT 3

Cooper {Super Cooper} Celia Sunne's Airedale Terrier.



