

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

<i>In re Matter of Application Serial No. 77/549,263 for the trademark ONE LOVE</i> Raising Cane's USA, LLC, Opposer, v. Fifty-Six Hope Road Music Limited, Applicant.	Opposition No. 91-198552 ANSWER TO NOTICE OF OPPOSITION
---	---

Applicant Fifty-Six Hope Road Music Limited ("Applicant"), by and through its counsel, responds to the Notice of Opposition ("Opposition") filed by Opposer Raising Cane's USA, LLC ("Opposer") as follows:

In response to the preliminary paragraph of the Opposition, Applicant admits that it filed Application Serial No 77/549,263 for the trademark ONE LOVE ("Application") on August 18, 2008 for "entertainment services in the nature of live musical performances; organizing cultural festivals featuring music, dance, art exhibitions and heritage markets; providing information on a website relating to music, entertainment, and cultural festivals of others; and music publishing services," and that the Application was published for opposition on January 11, 2011, but denies that Opposer will be damaged by the registration of the Application. Applicant lacks sufficient information or belief to admit or deny any remaining allegations contained in the preliminary paragraph of the Opposition, and therefore denies each and every such allegation.

1. Applicant admits the allegations contained in paragraph 1 of the Opposition.
2. Applicant denies the allegations contained in paragraph 2 of the Opposition.
3. Applicant denies the allegations contained in paragraph 3 of the Opposition.



03-25-2011

4. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 4 of the Opposition, and therefore denies each and every such allegation.

5. Applicant admits that the <<uspto.gov>> website reveals that Opposer is listed as the owner of U.S. Trademark Registration No. 3,033,511 of ONE LOVE for “restaurant services.” Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 5 of the Opposition, and therefore denies each and every such allegation.

6. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 6 of the Opposition, and therefore denies each and every such allegation.

7. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 7 of the Opposition, and therefore denies each and every such allegation.

8. Applicant denies the allegations contained in paragraph 8 of the Opposition.

9. Applicant denies the allegations contained in paragraph 9 of the Opposition.

10. Applicant admits that it filed a Petition to Cancel Opposer’s U.S. Registration No. 3,033,511, that has been assigned Cancellation No. 92-053461 (not No. 92-053460, as alleged by Opposer) (“the Petition”). Applicant admits that it alleged in the Petition that Opposer’s Registration is confusingly similar to and similar in sound, appearance, and meaning to Applicant’s ONE LOVE mark, as reflected in the Application and other of Applicant’s concurrently pending applications to register ONE LOVE, and that Applicant has priority of use over Registrant/Petitioner, and that Registrant’s/Petitioner’s use of ONE LOVE draws a false association or connection with Bob Marley and Applicant. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 10 of the Opposition, and therefore denies each and every such allegation.

11. Applicant admits that it alleged in the Petition that the goods and services offered by Applicant under its ONE LOVE mark are similar and related to those offered by Opposer under its ONE LOVE mark, and that Applicant has priority of use over Registrant/Petitioner, and that Registrant's/Petitioner's use of ONE LOVE draws a false association or connection with Bob Marley and Applicant. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 11 of the Opposition, and therefore denies each and every such allegation.

12. Applicant admits that it alleged in the Petition that continued registration of Opposer's ONE LOVE mark is likely to cause confusion, to cause mistake, or to deceive as to source, association, origin, affiliation, endorsement or sponsorship of or to dilute Opposer's ONE LOVE mark, and that Applicant has priority of use over Registrant/Petitioner, and that Registrant's/Petitioner's use of ONE LOVE draws a false association or connection with Bob Marley and Applicant. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 12 of the Opposition, and therefore denies each and every such allegation.

13. Applicant denies the allegations contained in paragraph 13 of the Opposition.

14. In response to paragraph 14 of the Opposition, Applicant admits that it did not seek Opposer's permission or authorization or a license before filing the Application, but denies that any such license, authorization or permission was needed for Applicant to use and register its ONE LOVE mark.

15. Applicant denies the allegations contained in paragraph 15 of the Opposition.

16. Applicant denies the allegations contained in paragraph 16 of the Opposition.

Wherefore, Applicant respectfully requests that the Opposition be dismissed with prejudice and that its Application proceed towards registration on the Principal Register.

AFFIRMATIVE DEFENSES

First Affirmative Defense - Failure To State A Claim

1. Opposer has failed to allege grounds sufficient to sustain the Opposition.

Second Affirmative Defense - Waiver

2. The Opposition is barred by the doctrine of waiver.

Third Affirmative Defense - Laches

3. The Opposition is barred by the doctrine of laches.

Fourth Affirmative Defense - Estoppel

4. The Opposition is barred by the doctrine of estoppel.

Fifth Affirmative Defense - Acquiescence

5. The Opposition is barred by the doctrine of acquiescence.

Sixth Affirmative Defense - Priority

6. Applicant has prior rights in the ONE LOVE mark.

Seventh Affirmative Defense - Unclean Hands

7. The Opposition is barred by the doctrine of unclean hands.

Respectfully submitted,

Dated: March 22, 2011

By: 
Jill M. Pietrini
Paul Bost
MANATT, PHELPS & PHILLIPS, LLP
11355 West Olympic Boulevard
Los Angeles, CA 90064-1614
Telephone: (310) 312-4000
Attorneys for Applicant

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, Trademark Trial And Appeals Board, P.O. Box 1451, Alexandria, VA 22313-1451, on this 22nd day of March, 2011.


LaTrina A. Martin

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Applicant's Answer to Notice of Opposition is being deposited as first class mail, postage prepaid, in an envelope addressed to:

S. Lloyd Smith, Esq.
Buchanan Ingersoll & Rooney PC
1737 King Street, Suite 500
Alexandria, VA 22314
lloyd.smith@bipc.com

on this 22nd day of March, 2011.



LaTrina A. Martin

300226650.1