

ESTTA Tracking number: **ESTTA402266**

Filing date: **04/06/2011**

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

Proceeding	91198915
Party	Defendant The Marshall Companies, LLC
Correspondence Address	THE MARSHALL COMPANIES, LLC #244 5850 W 3RD ST LOS ANGELES, CA 90036 rodney@marshall-companies.com
Submission	Answer
Filer's Name	Rodney T. Marshall
Filer's e-mail	rodney@marshall-companies.com
Signature	/Rodney T. Marshall/
Date	04/06/2011
Attachments	ANCPS Answer to Trademark Notice of Opposition 4-6-11.pdf (6 pages) (529275 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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POTTLE PRODUCTIONS, INC.	:	
	:	
Opposer,	:	Opposition No. 91198915
	:	
v.	:	Application Serial No. 77939390
	:	
THE MARSHAL COMPANIES, LLC	:	
	:	
Defendant	:	
-----X	:	

ANSWER

The Marshall Companies, LLC, (“Defendant”) is a small-business enterprise that has a majority-share investment in the creative property of interest, AMERICA’S NEXT CELEBRITY PORN STAR, for which trademark registration has been sought and is currently being challenged by Pottle Productions, Inc. (“Opposer”).

The Defendant hereby submits a general denial of all allegations made by Opposer against Defendant’s trademark, based upon the following points that categorically counter the points referenced within Opposer’s Notice of Opposition, namely Section C, “Applicant’s Attempts To Misappropriate The Goodwill Of The ANTM Mark”, paragraphs 13 – 21 therein.

RESPONSE TO Section C, Paragraph 13:

It is evident that Defendant’s mark is more unlike Opposer’s mark than it is similar. Defendant’s mark shares only two (2) of its five (5) title words with Opposer’s mark – those words being “America’s” and “Next”. Two words of a five-word mark reflect

a minor percentage of applicant's entire mark, and in no way connotes a connection to Opposer's mark based upon this word usage. Opposer's claim that Defendant's mark "incorporates wholly the prominent elements of Opposer's ANTM mark" would mean, in essence, that Defendant is attempting to register Opposer's whole mark. This accusation is denied, as it is literally, categorically, and blatantly untrue, as made evident by Defendant's trademark registration application, submitted February 18, 2010.

RESPONSE TO Section C. Paragraph 14:

Opposer alleges that Defendant's adoption and use of the words "America's Next" in connection with television programming focusing on a competitive search for a talented individual" is too strikingly similar to the Opposer's use and purpose of its own mark. Defendant disputes this accusation, as the Defendant's mark is no more similar than that of several other productions that share these two common words in connection with television programming focusing on a competitive search for a talented individual. Case in point: On Sunday, March 6, 2011, NBC premiered its new reality series, "America's Next Great Restaurant", in which (as described by the network) "one contestant will survive elimination and receive one of the biggest reality prizes in television history, a new restaurant." It is evident that precedence has not been established that would bar creative works of reality or talent search formats from utilizing the words "America's Next" in its mark and/or title.

RESPONSE TO Section C. Paragraph 15:

It is without merit that Opposer alleges that Defendant's mark will lead television viewers to "believe that programs promoted by [Defendant] under the challenged mark are endorsed by, or associated with" Opposer's mark. Defendant disputes this accusation for reasons already expressed herein. In addition to these already established differences, the Defendant's creative property of interest bears no other core similarities. Any impression of connection between Opposer and Defendant's creative properties by the viewing public is not – nor has ever been – intended, encouraged, referenced, or supported by the Defendant or Defendant's product developers in the development of Defendant's mark.

RESPONSE TO Section C, Paragraph 16:

Defendant vehemently denies any accusation of calculation to "appropriate the goodwill and reputation of Opposer in the ...ANTM Mark such that the goodwill and reputation of the ANTM Mark will "rub off" on Applicant's challenged mark." Such an accusation is unfounded, has not and cannot be proven, and thus should be stricken from Opposer's claim.

RESPONSE TO Section C, Paragraph 17:

It is of the mere opinion of the Opposer (or writer of the Notice of Opposition) that "the word PORN is of a risqué nature." As it is opinion, this statement should be stricken from Opposer's claim, as it is not deemed as factual evidence (or proper grounds) to be considered or evaluated in this forum on the topic of trademark.

Additionally, Defendant disputes the suggestion that Defendant's adoption and use

of the challenged mark will have a negative bearing on Opposer's mark, or to the goodwill and reputation of Opposer's established mark.

RESPONSE TO Section C, Paragraph 18:

For reasons already established, Defendant disputes any suggestion that Defendant's mark "will be falsely associated with the ANTM mark and their substantial goodwill and recognition."

RESPONSE TO Section C, Paragraph 19:

For reasons already established, Defendant disputes any suggestion that Defendant's mark "will dilute the value of the famous ANTM Mark and lessen the ability of ANTM Mark to identify and distinguish Opposer's good and services."

RESPONSE TO Section C, Paragraph 20:

For reasons already established, Defendant disputes any suggestion that Defendant's mark "is likely to disparage the ANTM mark...due to the risqué subject matter of challenged mark."

RESPONSE TO Section C, Paragraph 21:

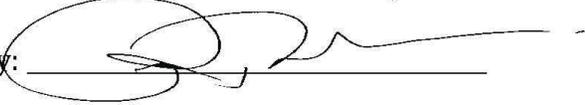
For reasons already established, Defendant disputes any suggestion that the registration of Defendant's mark would be inconsistent with Opposer's prior and superior rights in its marks, as well as disputes suggestions of damage to Opposer's mark's goodwill.

WHEREFORE and with just cause as expressed herein, Defendant requests that Opposer's opposition to Application No. 77939390 be dismissed with prejudice, and Defendant's trademark registration granted as sought.

Respectfully submitted,

THE MARSHALL COMPANIES, LLC

Dated: April 6, 2001

By:  _____

Rodney T. Marshall
Chief Executive Officer

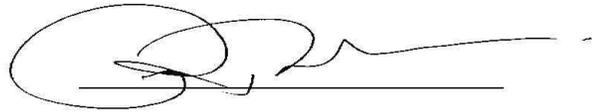
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	:	
Defendant	:	
-----X	:	

CERTIFICATE OF TRANSMISSION

I, Rodney T. Marshall, hereby certify that a copy of the foregoing ANSWER has been transmitted electronically to the United States Patent and Trademark Office on the date indicated:

Dated: April 6, 2011



CERTIFICATE OF SERVICE

I, Rodney T. Marshall, hereby certify that a copy of the foregoing ANSWER was served, on the date indicated below, by electronic mail (email) to the Counsel for Opposer, Rebecca Borden, at the following:

rebecca.borden@cbs.com

Additionally, the following email addresses were also served:

elena.vetere@cbs.com
trademarks@cbs.com

Dated: April 6, 2011

