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

Proceeding	91200983
Party	Defendant Rossi, Bryon Vittorio, Mulliniks, Michael Paul, Zott, Daniel Neal, Saputo, Stephen Michael, Rossi, Daniel Luigi
Correspondence Address	THOMAS DAVID RUTH Keller Turner Ruth Andrews Ghanem & Heller, PLLC 700 12th Avenue South, Suite 302 NASHVILLE, TN 37203 UNITED STATES tdruth@ktrlawgroup.com
Submission	Answer
Filer's Name	Thomas David Ruth
Filer's e-mail	tdruth@ktrlawgroup.com
Signature	/tdr/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

O.C SEACRETS, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91200983
)	
DANIEL LUIGI ROSSI)	Serial No. 85156263
BRYON VITTORIO ROSSI)	
MICHAEL PAUL MULLINIKS)	
DANIEL NEAL ZOTT, and)	
STEPHEN MICHAEL SAPUTO)	
)	
Applicant.)	

ANSWER

Daniel Luigi Rossi, Bryon Vittorio Rossi, Michael Paul Mulliniks, Daniel Neal Zott, and Stephen Michael Saputo (collectively, “Applicant”), by its undersigned legal counsel, Thomas D. Ruth, for its Answer to O.C. Seacrets, Inc.’s (“Opposer”) Petition for Cancellation in the above-styled matter alleges and states as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's allegation number 1.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's allegation number 2.
3. Applicant admits Opposer's allegation number 3 insofar as Opposer applied for and received registration of the three (3) registrations therein identified, and admits that Opposer has the additional twelve (12) applications pending, but denies the remainder, and specifically denies that Opposer has been using the applied-for marks in connection with all of the goods and services identified in the various applications and registrations as of the dates alleged.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's allegation number 4.

5. Applicant admits Opposer's allegation number 5 insofar as Applicant had not alleged use of it's THE AMERICAN SECRETS mark prior to October 19, 2010, but denies that the date follows the date on which the Opposer first used the SEACRETS mark, at least in connection with Application Serial Nos. 76705105, 76705106 and 76705107, which were filed after Applicant's application was filed, with constructive first-use dates of October 27, 2010, and Application Serial Nos. 76704879, 76704880, 76704883, 76704885 and 76704886, which are pending intent-to-use applications with no declaration of use, and all of which, together the remaining four (4) applications, are subject to a pending action in the U.S. District Court for the District of Maryland, *The Coryn Group, Inc., et al. v. O.C. Seacrets, Inc.*, Civil Action No. 08-CV-02764-WDQ.

6. With respect to Opposer's allegations in paragraph 6, Applicant admits to the identification of services identified in its application but denies the same are closely related to the goods and services offered by Opposer; denies that they are likely to be purchased by the same class of purchasers; and is without knowledge or information sufficient to form a belief as to whether the goods and services will be marketed through similar or related channels of trade.

7. Applicant denies Opposer's allegation number 7.

8. Applicant is without knowledge or information sufficient to form a belief as to Opposer's allegation number 8, but specifically denies that Applicant's use of THE AMERICAN SECRETS would enable Applicant to "reap the benefits" of Opposer's goodwill and reputation and denies that consumers would draw any connection between a resort and a rock band.

9. Applicant denies Opposer's allegation number 9.

10. Applicant denies Opposer's allegation number 10.
11. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's allegation number 11.
12. Applicant admits Opposer's allegation number 12.
13. Applicant denies Opposer's allegation number 13.
14. Applicant denies Opposer's allegation number 14.
15. Any allegation not specifically admitted or denied is hereby denied.

AFFIRMATIVE DEFENSES

16. On information and belief, Applicant respectfully submits that Opposer's applications for Serial Nos. 76705105, 76705106 and 76705107 should not be enforceable against Applicant due to Opposer's fraud in alleging a first use date of June 30, 1988 for the following goods and services which, as Applicant will establish, is impossible due to the technical limitations of the time, which Applicant knew or should have known when preparing the applications:

Entertainment services, namely, providing a website that displays various requests, reviews, recommendations, rankings, trackings, votes, and information relating to new, special, popular services, and events in the fields of pop culture entertainment and sports, all exclusively for nonbusiness and non-commercial transactions and purposes . . . providing radio programs in the field of music, entertainment and commentary via global computer network; . . . providing non-downloadable prerecorded music, information in the field of music, and commentary and articles about music, all on-line via a global computer network; providing non-downloadable playback of music via global communications networks; entertainment services, namely, the provision of continuing programs, segments, and shows featuring news, comedy, and commentary delivered via radio, the internet, or live; entertainment services, namely, providing information by means of a global computer network in the fields of celebrities, entertainment, and popular culture; . . . on-line electronic newsletters delivered by e-mail in the field of music and entertainment.

17. Opposer has otherwise committed fraud by failing to use all of the goods and services listed in in connection with the marks identified in Opposer's applications and registrations that are the subject of the Opposition.

18. Opposer's and Applicant's respective marks (SEACRETS and THE AMERICAN SECRETS) are so different that no consumer is likely to think the goods and services of each emanate from a single source even if such goods and services were identical (which they are not).

19. Opposer's and Applicant's goods and services, both as listed in their respective applications/registrations as well as in practice, are so completely different and unrelated that even if the two operated under identical marks (which they are not), no confusion would be likely.

20. Opposer's Opposition fails to state a claim upon which relief can be granted.

WHEREFORE, Applicant respectfully requests that the Trademark Trial and Appeal Board dismiss the Opposition, that Applicant be granted such further and additional relief as is just; and Applicant be granted permission to amend its Answer, and add affirmative defenses and counterclaims, as additional facts become known.

Respectfully submitted,

/s/ Thomas D. Ruth

Thomas D. Ruth, Esq.

Keller Turner Ruth Andrews Ghanem & Heller, PLLC

700 12th Avenue South, Suite 302

Nashville, Tennessee 37203

Phone: 615-244-7600

Fax: 855-344-7600

Attorney for Applicant

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Answer has been placed for delivery by the United States Postal Service to the attorney for Opposer, Barth X. deRosa, Esq., Dickinson Wright, PLLC 1875 Eye Street, NW, Suite 1200, Washington, DC 20006, on this the 12th day of December, 2011.

/s/ Thomas D. Ruth _____
Thomas D. Ruth