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Filing date: **10/31/2011**

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

| | |
|------------------------|---|
| Proceeding | 91201726 |
| Party | Defendant Bi-Silque-Artigos Para Casa e Escritorio , S.A. |
| Correspondence Address | DAVID EHRLICH FROSS ZELNICK LEHRMAN & ZISSU PC 866 UNITED NATIONS PLZ NEW YORK, NY 10017-1822 UNITED STATES |
| Submission | Answer |
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| Signature | /Barbara A. Solomon/ |
| Date | 10/31/2011 |
| Attachments | Answer to Notice of Opposition (F0902681).PDF (5 pages)(183443 bytes) |

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

Application Serial No. 77/405,947
Filed: February 26, 2008
Mark: EARTH-IT
Published: May 24, 2011

| | | |
|-------------------------------|---|----------------------------|
| 3M Company, |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No.: 91/201,726 |
| |) | |
| BI-SILQUE-ARTIGOS PARA CASA E |) | |
| ESCRITORIO, S.A., |) | |
| |) | |
| Applicant. |) | |
| |) | |
| |) | |

ANSWER TO NOTICE OF OPPOSITION

Applicant Bi-Silque-Artigos Para Casa E. Escritorio, S.A. (“Applicant”) for its answer to the Opposition filed by 3M Company (“Opposer”) opposing registration of Applicant’s Application No. 77/405,947 for the mark EARTH-IT, by its counsel Fross, Zelnick, Lehrman & Zissu, states as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition and therefore denies the same.
2. The allegations set forth in Paragraph 2 are in the nature of a legal conclusion which cannot be admitted or denied and further states that to the extent the allegations set forth in Paragraph 2 are intended to be a statement of fact, denies knowledge or information sufficient to form a belief as to the truth of the allegations asserted therein, including

knowledge or information relating to the factors that establish fame of a mark and therefore denies the allegations of Paragraph 2 in their entirety.

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice of Opposition, including but not limited to Opposer's claim of extensive common law rights, Opposer's ownership of the identified registrations, and the status thereof and further notes that the registrations asserted in the Notice of Opposition are not attached to or otherwise made of record in the Opposition proceeding.

4. Admits the allegations contained in Paragraph 4 of the Notice of Opposition.

5. Admits the allegations contained in Paragraph 5 of the Notice of Opposition.

6. Admits the allegations contained in Paragraph 6 of the Notice of Opposition.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 of the Notice of Opposition and therefore denies the same.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 of the Notice of Opposition and therefore denies the same.

9. Denies knowledge or information sufficient to form a belief as to the truth of the fourth and fifth sentences of Paragraph 9 of the Notice of Opposition concerning Opposer's commitment to sustainable practices and therefore denies the same and denies all remaining allegations contained in Paragraph 9 of the Notice of Opposition.

10. To the extent Paragraph 10 of the Notice of Opposition suggests or implies that Applicant is aware of all uses that Opposer makes of its POST-IT mark or for which

POST-IT is validly registered, denies knowledge or information sufficient to form a belief as to the truth of such allegations, whether express or implied and otherwise denies the allegations contained in Paragraph 10 of the Notice of Opposition.

11. Admits that the Application is unrestricted as to any particular trade channel and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Notice of Opposition.

12. Admits the allegations contained in Paragraph 12 of the Notice of Opposition, except denies any inference or suggestion, express or implied, that Applicant was required to receive Opposer's permission or approval to use the mark opposed.

13. Denies the allegations contained in Paragraph 13 of the Notice of Opposition.

14. Denies the allegations contained in Paragraph 14 of the Notice of Opposition.

15. Denies the allegations contained in Paragraph 15 of the Notice of Opposition.

16. Denies the allegations contained in Paragraph 16 of the Notice of Opposition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

17. Opposer's claims are barred by waiver, estoppel and/or acquiescence.

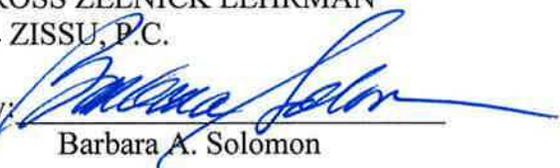
AS AND FOR A SECOND AFFIRMATIVE DEFENSE

18. Various paragraphs of the Notice of Opposition do not comply with Fed. R. Civ. P. 8(a) and (e), which require a "short and plain statement" of the claims showing the Opposer is entitled to relief and 37 C.F.R. § 2.104(a) and T.B.M.P. § 312.03, which require "a short and plain statement" of the reasons why Opposer believes it would be damaged by the registration of the mark at issue. As such, Applicant is not required to separately admit or deny each of the allegations contained therein.

WHEREFORE, Applicant Bi-Silque-Artigos Para Casa E. Escritorio, S.A.
respectfully requests that the Notice of Opposition be dismissed with prejudice and that
Application Serial No. 77/210127 for the mark EARTH-IT in International Classes 16 and 20
proceed to registration.

Dated: New York, New York
October 31, 2011

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: 

Barbara A. Solomon

866 United Nations Plaza
New York, New York 10017
(212) 813-5900

*Attorneys for Applicant Bi-Silque-Artigos Para
Casa E. Escritorio, S.A.*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** was served by First Class Mail postage prepaid on counsel for Opposer 3M Company by mailing a copy of the same to:

William G. Barber, Esq.
Pirkey Barber LLP
600 Congress Ave., Suite 2120
Austin, TX 78701

on this 31st day of October, 2011.



Barbara A. Solomon