

ESTTA Tracking number: **ESTTA445340**

Filing date: **12/08/2011**

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

Proceeding	91202340
Party	Defendant Harry N. Abrams, Inc.
Correspondence Address	JORDAN A. LAVINE FLASTER/GREENBERG P.C. 1600 JFK BLVD FL 2 PHILADELPHIA, PA 19103-2808  jordan.lavine@flastergreenberg.com
Submission	Answer
Filer's Name	Joran LaVine
Filer's e-mail	jordan.lavine@flastergreenberg.com,linda.ladzenski@flastergreenberg.com
Signature	/jordan lavine/
Date	12/08/2011
Attachments	appleseedanswer.pdf ( 4 pages )(12270 bytes )

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

John F. Whalen	)	
d/b/a Appleseed Press Book Publishers,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91202340
	)	
Harry N. Abrams, Inc.,	)	
	)	
Applicant.	)	
	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Harry N. Abrams, Inc. (“Applicant”), responds to the Notice of Opposition, as follows:

1. Applicant is without knowledge or information concerning the allegations of paragraph one of the Notice of Opposition, and so denies the same. Applicant further states that it believes, upon information and belief, that Opposer abandoned any trademark rights it may have once had in the trademarks alleged in paragraph one of the Notice of Opposition.

2. Applicant is without knowledge or information concerning the allegations of paragraph two of the Notice of Opposition, and so denies the same. Applicant further states that it believes, upon information and belief, that Opposer abandoned any trademark rights it may have once had in the trademarks alleged in paragraph two of the Notice of Opposition.

3. Applicant is without knowledge or information concerning the allegations of paragraph three of the Notice of Opposition, and so denies the same. Applicant further states

that it believes, upon information and belief, that Opposer abandoned any trademark rights it may have once had in the trademarks alleged in paragraph three of the Notice of Opposition.

4. Applicant is without knowledge or information concerning the allegations of paragraph four of the Notice of Opposition, and so denies the same. Applicant further states that it believes, upon information and belief, that Opposer abandoned any trademark rights it may have once had in the trademarks alleged in paragraph four of the Notice of Opposition.

5. Admitted.

6. Admitted.

7. As Applicant believes, upon information and belief, that Opposer abandoned any right it may have once had in its alleged trademarks, Applicant denies the allegations in paragraph seven of the Notice of Opposition.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

### **AFFIRMATIVE DEFENSES**

By way of further answer and affirmative defenses, Applicant alleges as follows:

1. To the extent Applicant ever had any rights in the trademarks alleged in this proceeding, Opposer has abandoned its rights in the marks in which it alleges rights based upon its non-use of the alleged marks for at least three years and its intent to not resume use of the marks.

2. Opposer has unclean hands to the extent it has alleged rights in the marks alleged in this proceeding solely for the purposes of interrupting the business of Applicant and profiting

from the business of Applicant.

3. Opposer has failed to state a claim or valid basis for opposition to Applicant's mark upon which relief may be granted.

4. Applicant's claims are barred by the doctrines of waiver and estoppel.

5. Applicant's claims are barred by doctrine of laches.

6. Applicant will assert any and all other valid defenses which may be available or developed through discovery and/or the testimony periods in this proceeding.

WHEREFORE, Applicant requests that Opposer's Notice of Opposition be dismissed with prejudice in all respects.

Respectfully submitted,

**FLASTER/GREENBERG, P.C.**

Dated: December 8, 2011

By: s/Jordan A. LaVine/  
Jordan A. LaVine  
Alexis K. Arena  
1600 John F. Kennedy Blvd., 2<sup>nd</sup> Floor  
Philadelphia, PA 19103  
(t) 215-279-9389

ATTORNEYS FOR APPLICANT

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

John F. Whalen	)	
d/b/a Appleseed Press Book Publishers,	)	
Opposer,	)	
v.	)	Opposition No. 91202340
Harry N. Abrams, Inc.,	)	
Applicant.	)	
	)	

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Answer was served on the following counsel of record for Opposer this 1st day of December, 2011, via regular U.S. Mail:

David M. Perry  
Blank Rome, LLP  
One Logan Square  
Philadelphia, PA 19103

By: s/Jordan A. LaVine/  
Jordan A. LaVine

Dated: December 8, 2011