

ESTTA Tracking number: **ESTTA462677**

Filing date: **03/20/2012**

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

Proceeding	91203757
Party	Defendant Los Angeles Film Schools, LLC
Correspondence Address	DAVID L. SIGALOW ALLEN, DYER, DOPPELT, MILBRATH & GILCHRI 255 S ORANGE AVE STE 1401 ORLANDO, FL 32801-3460 dsigalow@addmg.com
Submission	Answer
Filer's Name	David L. Sigalow
Filer's e-mail	dsigalow@addmg.com, aimber@addmg.com
Signature	/David L. Sigalow/
Date	03/20/2012
Attachments	Answer to Notice of Opposition.pdf (4 pages)(553270 bytes)

4. Applicant is without knowledge or information sufficient to admit or deny the allegations contained in Paragraph 4 of the Notice of Opposition, and based upon such lack of knowledge or information hereby denies same.

5. Applicant is without knowledge or information sufficient to admit or deny the allegations contained in Paragraph 5 of the Notice of Opposition, and based upon such lack of knowledge or information hereby denies same.

6. Applicant admits it is the owner of U.S. Application No. 85/259780 and that the application speaks for itself. Applicant denies any other allegation contained in Paragraph 6 not expressly admitted herein, including the statement that Applicant's mark is "identical" to an unspecified mark not identified in Paragraph 6.

7. Applicant denies the allegations contained in Paragraph 7 of the Notice of Opposition.

8. Applicant denies the allegations contained in Paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations contained in Paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations contained in Paragraph 10 of the Notice of Opposition.

Applicant denies that Opposer is entitled to any relief.

AFFIRMATIVE DEFENSES

1. Opposer has failed to state a claim upon which relief can be granted
2. Opposer's U.S. Registration Nos. 2,794,515 and 2,887,392 are directed to goods, services, channels of trade and consumers which are distinguishable from the Applicant's services, channels of trade and consumers, and are therefore unlikely to be confused with Applicant's mark.
3. The marks shown in U.S. Registration Nos. 2,794,515 and 2,887,392 are not famous.
4. Opposer is barred from bringing this action because of laches, estoppel and/or acquiescence. Applicant is the owner of abandoned U.S. Application No. 76/559647 for the mark **AS REAL AS IT GETS**, which was filed on October 31, 2003 as directed to services that are virtually identical to those set forth in the subject application. This application was published for opposition on January 1, 2008 and allowed on March 25, 2008 when opposer (or any other party) failed to file an opposition or otherwise object. Although Applicant's original **AS REAL AS IT GETS** application lapsed due to the failure of Applicant to file a Statement of Use, Opposer is estopped from now claiming that the identical mark which is specified for use on virtually identical services is likely to be confused with Opposer's marks when it acquiesced and chose not to assert the same claims against Applicant's original application for the mark **AS REAL AS IT GETS**.
5. Opposer and/or Opposer's marks are not likely to be damaged or harmed by registration of the subject mark.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be dismissed with prejudice.

Dated: March 20, 2012

Respectfully Submitted,



David L. Sigalow, Esq.
Allison R. Imber, Esq.
Allen, Dyer, Doppelt, Milbrath
& Gilchrist, P.A.
255 South Orange Avenue
Post Office Box 3791
Orlando, FL 32802
Tel: (407) 841-2330
Fax: (407) 841-2343
dsigalow@addmg.com
aimber@addmg.com
Attorneys for Applicant

Certificate of Service

The undersigned hereby certifies that on this 20th day of March, 2012, a copy of the foregoing was served via first class mail, postage prepaid, on the following:

Michael N. Feder, Esq.
Jennifer K. Craft, Esq.
Gordon & Silver, Ltd.
3960 Howard Hughes Parkway, Ninth Floor
Las Vegas, Nevada 89169

