

ESTTA Tracking number: **ESTTA463716**

Filing date: **03/26/2012**

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

Proceeding	91203803
Party	Defendant William Vittore
Correspondence Address	WILLIAM VITTORE 2232 32ND STREET SACRAMENTO, CA 95817-1201 UNITED STATES william@uspto.pro
Submission	Answer
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Signature	/Timothy Willis/
Date	03/26/2012
Attachments	Opposition No 91203803.pdf (5 pages)(584454 bytes)

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4 Specially Appearing for Applicant

5 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
6 BEFORE THE TRADEMARK AND APPEAL BOARD

7 In the matter of trademark application
8 Serial No. 85317020
9 For the mark War VB ("The Mark")
10 Published in the *Official Gazette* on
December 13, 2011

11 Ian DIXON,)
12 Opposer,)
13 vs.)
14 William Vittore,)
15 Defendant.)
16)

Opposition No: 91203803

17 APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

18 Applicant, William VITTORE, for his answer to the Notice of Opposition filed by Ian
19 DIXON against application of registration against William Vittore's trademark WAR VB, Serial
20 Number 85317020, published in the Official Gazette on December 13, 2011, pleads and avers as
21 follows:
22

- 23 1. Answering paragraph 1 of the Notice of Opposition, Applicant denies the allegations
24 therein.
- 25 2. Answering paragraph 2 of the Notice of Opposition, Applicant admits that Opposer has
26 pending applications for federal trademark registration but denies all other allegations therein.
27

1 Applicant affirmatively alleges that there is no likelihood of confusion, mistake, or deception
2 because, inter alia, Applicant's mark and the pleaded mark of Opposer are not confusingly similar.

3 FIFTH AFFIRMATIVE DEFENSE

4 There is no likelihood of confusion, mistake, or deception because, inter alia, Applicant's
5 mark and the pleaded marks of Opposer are not confusingly similar. Any similarity, if at all, between
6 Applicant's mark and the pleaded marks of Opposer is in the portion "War" which, upon information
7 and belief, has been used and registered by numerous third parties in the athletic and sports
8 equipment and apparel industry as well as in the general clothing industry. As a result, Opposer
9 cannot base any similarity between its pleaded marks and the mark of Applicant by use of "War".
10 Any trademark or service mark rights that Opposer may have are narrowly circumscribed to the
11 goods or services indicated and any other use would not lead to a likelihood of confusion.
12

13 SIXTH AFFIRMATIVE DEFENSE

14 Opposer's mark "WAR" is or has become generic for inexpensive, convenient or easy but low
15 quality or commercialized versions of items and therefore cannot have meaning as a trademark.
16

17 SEVENTH AFFIRMATIVE DEFENSE

18 Applicant further affirmatively alleges that Applicant has been using its mark and developing
19 consumer recognition and goodwill for several years and Opposer has done nothing and is
20 consequently barred by laches, acquiescence and estoppel from opposing Applicant's application.
21

22 EIGHTH AFFIRMATIVE DEFENSE

23 There is no likelihood of dilution of Opposer's mark by tarnishment because Opposer's marks
24 are associated with inexpensive, convenient or easy but low quality or commercialized versions of
25 items whereas Applicant's mark is associated with high quality, designer athletic equipment and
26 apparel.
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NINTH AFFIRMATIVE DEFENSE

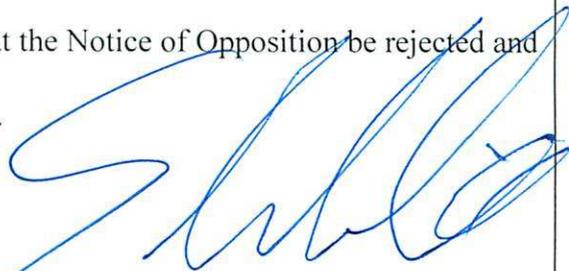
There is no likelihood of dilution by blurring because Opposer's and Applicant's marks are not sufficiently similar; there are, upon information and belief, numerous registrations of third party marks with the phrase "War"; neither Applicant nor Applicant's predecessors in interest intended any association with Opposer's marks or any of them; and upon information and belief, ordinary prospective purchaser's of Applicant's products do not associate Applicant's and Opposer's marks.

TENTH AFFIRMATIVE DEFENSE

In 2007 and 2008, Opposer and his partner, Suneet Singal, through ABW Inc., a defunct California corporation, attempted to distributors of the "WAR VB" mark for William and Kai Vittore. Based upon contracts formed and signed by Opposer, there are no grounds for Opposer to claim any ownership over the "WAR VB" mark.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be rejected and that applicant's mark be allowed to proceed to registration.

March 26, 2012



Timothy Willis

Attorney for Defendant

1 **PROOF OF SERVICE**

2 I declare:

3 I am a citizen of the U.S. and employed in the County of Sacramento, State of California. I am
4 over the age of eighteen years and not a party to the within action. My business address is 901 H
5 Street, Suite 130, Sacramento, CA 95814. This date I served the below-listed document(s) by:

6 MAIL. I enclosed such document in a sealed envelope with postage thereon fully
7 prepaid in the U.S. mail in Sacramento, California, addressed in the manner set forth immediately
8 below this declaration.

9 PERSONAL SERVICE. I caused such document to be delivered by hand to the
10 office of the person(s) listed below.

11 BY FAX. This date, I sent said document by facsimile to the person(s) below at the
12 fax number below.

13 I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is
14 true and correct and that I executed this document at Sacramento, California, on the following date:

15 February 28, 2011

16 Viridiana Raya



17 ANSWER TO APPLICANT'S NOTICE OF OPPOSITION

18 ON:

19 Majique Ladnier

20 101 Barnhart Circle

21 Sacramento, CA, USA 95835

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