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

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

JOHN GERARD MARINO

Serial No. 85/411,955

Opposer,

Opposition No. 91/204,897

vs

LAGUNA LAKES COMMUNITY

ASSOCIATION, INC.

Applicant.

OPPOSER JOHN GERARD MARINO's TRIAL BRIEF

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Introduction to Arguments

John Gerard Marino has continuously used the mark MR. LAGUNA LAKES since at least as early as August 2004 to promote and sell real estate in the Laguna Lakes development formed by its builder Transeastern.

While Transeastern actively used the LAGUNA LAKES marks in commerce to sell real estate from 2003 until 2005, it never transferred any of its intellectual property to Applicant, Laguna Lakes Community Association, Inc. (“LLC”).

Contrary to the arguments of LLCA, it cannot obtain priority of use over Marino by “common sense” or “osmosis.”

The LAGUNA LAKES applications are confusingly similar to Marino’s MR. LAGUNA LAKES mark.

The LAGUNA LAKES applications are merely geographically descriptive and refer to a geographic area in Southern California.

Finally, Marino contends that LLCA intentionally misstated its prior use of the marks LAGUNA LAKES in order to deceive the USPTO.

Statement of Facts

1. Opposer, John Gerard Marino (“Marino”) resides in a community called Laguna Lakes, which is overseen by the Laguna Lakes Community Association (“LLCA”) at 9069 Paseo de Valencia Street, Fort Myers, Florida 33908 since 2004 (Marino TT at 4)¹. Marino has been a licensed real estate agent in the State of Florida since 2001. *Id.* Marino has been selling homes in the Laguna Lakes development in Fort Myers, Florida since the community’s inception in

¹ Marino Trial TT or Trial Testimony is Docket Entry 62 of the TTAB docket.

² Tardiff TT or Trial Testimony is contained in Marino’s Notice of Reliance (D.E. 63).

2003. (Marino TT at 5).

2. On or about August 2004, Marino began the use of the mark MR. LAGUNA LAKES in association with real estate services (Marino TT 34). Since that time, Marino has consistently used the mark MR. LAGUNA LAKES in the promotion, advertising, and sale of real estate services in Florida by and through his website at the domains MrLagunaLakes.com and Lagunalakes.com. (Marino TT 33-46).

3. On August 31, 2011 and September 2, 2011, LLCA filed to register the trademarks for LAGUNA LAKES and (Logo), U.S. Application Ser Nos.85411955 and 85414343, respectively (the “LAGUNA LAKES applications”).

4. In the LAGUNA LAKES applications, LLCA claims a date of first use in commerce of October 6, 2003 for both trademarks. This representation was not accurate. The name Laguna Lakes and the logo for Laguna Lakes were created by Transeastern Homes (“Transeastern”), not LLCA, for its Laguna Lakes development in 2003 and used by Transeastern continuously through 2005 at which time they were transferred to its successor in interest TOUSA, who filed for bankruptcy on or about May 2013. (Tardiff 8/23/13 TT at 119)² and did not transfer its intellectual property to LLCA.

5. Transeastern placed great emphasis on the nature of its development in that Laguna Lakes and each of its sub-developments such as “Beverly Hills”, “Monterey”, “Pebble Beach” and “Santa Barbara” were all named from areas in California and that Transeastern wanted to give the home-owners the feel of a “California life-style.” (Marino TT at 17-19). Many of the streets are taken from

² Tardiff TT or Trial Testimony is contained in Marino’s Notice of Reliance (D.E. 63).

names of streets in California such as the street where Marino resides, Paseo de Valencia which is based upon a street in California (Marino TT at 25). In fact, Laguna Lakes is a series of Lakes in Southern California which in part form a portion of Laguna Beach. <http://www.caopenspace.org/barbaraslake.html>

6. In February 2003, Transeastern held its grand opening weekend. At that time, Marino posed for pictures with the executives of Transeastern as Marino sold 11 Laguna Lakes properties in one day as part of the grand opening event. (Marino TT at 21-22).

7. As of April 4, 2003, Transeastern owed and operated a web site at the domain "lagunalakes.com" to market its Laguna Lakes development. (Marino TT at 16). Contrary to the representations made to the USPTO, LLCA has never owned or operated the lagunalakes.com web site.

8. On or about September 26, 2003, Transeastern filed with the State of Florida Articles of Incorporation for LLCA, with the initial officers being employees of Transeastern. (Marino TT at 31-33). Transeastern retained ownership of the LLCA until at least 2006. (Marino TT at 32). The Master Declaration for LLCA was filed on or about October 6, 2003 by Transeastern (Hajicek TT dated 3/3/14 at 5)³. On or about September 2, 2003, a quit-claim deed was recorded transferring certain parcels of real estate, and attachments thereto, from Transeastern Laguna Lakes, LLC to LLCA. (Hajicek TT dated 3/3/15 at 6)(Tardiff 8/23/13 TT at 62). Although the quit-claim deed does not reference the transfer of intangible assets such as intellectual property, the corporate representative of

³ Hajicek TT or trial testimony is found in Marino's Notice of Reliance or D.E. 63).

LLCA testified that “its common sense” that intellectual property was also transferred to LLCA (Hajicek TT dated 3/3/15 at 7-9). Hajicek finally confirmed that the deed does not reference intangible property and that the quit claim deed merely transferred common elements of the community other than those owned by the Laguna Lakes Community Development District (Hajicedk TT dated 3/3/15 at 8-10) Transeastern did not stop building until approximately 2005 and the ownership of the LLCA was not turned over by the builder Transeastern to the homeowners until sometime in 2006 Hajicek TT dated 3/3/15 at 20)(Tardiff 8/23/13 TT at 61).

9. Since its formation, LLCA merely collects assessments and runs the common areas such as the clubhouse, pool, tennis courts, volleyball courts, fishing pier, guardhouse and front gates. (Tardiff 8/23/13 TT 29-30). In addition each of the parcels such as Beverly Hills and Pebble Beach have their own semi-autonomous associations (Tardiff 8/23/13 TT 29) who have their own signage with the Laguna Lakes community name and logo, which are used without objection by the LLCA. (Tardiff 8/23/13 TT 30-32).

10. As of September 2003, LLCA was only collecting assessments and managing the common areas. The **only** entity that was using the Laguna Lakes name in commerce as a trademark was Transeastern for the marketing and sale of its residences. (Hajicek TT dated 3/3/15 at 14-15).

11. On or about August 3, 2004, Marino started printing business cards for his realtor business with the name MR. LAGUNA LAKES and with photos of the Laguna Lakes Community. (Marino TT at 34). Moreover, on or about February

17, 2005, Marino registered the Internet domain mrlagunalakes.com. (Marino TT at 35). On or about May 20, 2005, Marino first started printing postcards where he marketed himself as the brand MR. LAGUNA LAKES (Marino TT at 35-36-41). Around this time Marino also extensively advertised MR. LAGUNA LAKES in local newspapers and on curbside signs. (Marino TT at 41-43). Transeastern was well aware of Marino's use of the name Mr. Laguna Lakes and thought it was very "clever." (Marino TT 44-46). In fact, when TOUSA closed its sales center, they gifted the topography board and framed marketing materials to Marino.

12. As of March 2005, Transeastern also placed the words "Laguna Lakes" on monument signs for the development. (Marino TT at 13). Since Transeastern turned over the property, these monument signs have been owned by Laguna Lakes Community Development District not LLCA (Marino TT at 13-16, 56). While LLCA claims that its first use in commerce of the Laguna Lakes name and logo was on its monument signs attached to the development, those monument signs are owed by the Laguna Lakes Community Development District ("LLCDD") (Hajick TT 3/3/15 at 21-22). In fact, LLCA could not even identify the date it first started using the logo or name Laguna Lakes. (Hajicek TT 3/3/15 at 21, 32-37). LLCA was also not able to testify as to when Marino first started to use the name MR. LAGUNA LAKES for his business. (Tardiff 8/23/13 TT at 64-65).

13. LLCA has no evidence or documents evidencing the transfer or assignment of any intellectual property such as "Laguna Lakes" or the applicable logo from

Transeastern Homes or TOUSA to LLCA. (Hajicek TT dated 3/3/15 at 16-19).

14. Laguna Lakes is the name of the only natural fresh water lake in Orange County, California and the owner of Laguna Lakes is the City of Laguna Beach, California (Marino TT at 26-27). Many parcels of real estate are being marketed and sold to the public for Laguna Lakes in California both part of other Laguna Lakes subdivisions and properties proximately located to the natural lakes in California. (Marino TT at 28-29)(Tardiff 8/23/13 TT at 127). There is also real estate being sold in West Palm Beach Florida as part of a Laguna Lakes development. (Marino TT at 30-31)(Tardiff 8/23/13 TT at 127). See, <http://www.ariumlagunalakes.com/>.

15. On or about 2005 a public company by the name of TOUSA, purchased all of the assets of Transeastern. (Tardiff 8/23/13 TT at 119). On or about January, 2008, TOUSA filed for bankruptcy and still remains in bankruptcy court today (U.S. District Court S.D. Fla., *In Re: TOUSA, Inc.*, Case No: 08-10928 (JKO). (Tardiff 8/23/13 TT at 119).

16. On or about August 24, 2006, LLCA created its web site located at lagunalakesassociation.com. (Marino TT 33); (Tardiff 8/23/13 TT at 20).

17. From 2008 through 2010, the domain name lagunalakes.com was owned by TOUSA (Marino TT 50). In 2012, Marino purchased the domain name lagunalakes.com from TOUSA. (Marino TT 50-51).

18. Marino was on the board of directors of LLCA in 2007 and 2008 and at no time did any member of the LLCA object to Marino's use of the mark MR. LAGUNA LAKES or use of the Laguna Lakes name or logo. (Marino TT 51, 55).

In fact, the first time Marino heard objection of LLCA was in 2011, when Bob Hajicek objected to Marino's use of the name and logo for Laguna Lakes "because they were trademarked," even though they were not Federally registered and LLCA had not even applied for a Federal registration. (Marino TT 52).

19. On or about August 22, 2011, for the first time LLCA decided to attempt to federally register the Laguna Lakes name and logo (Marino TT 53-54).

19. As of December 19, 2013, LLCA is listing homes for rent and sale in the community on its web site. (Marino TT 57).

20. According to LLCA, it is not aware of any damages or harm caused by Marino's use of the Laguna Lakes name and logo and by his use of the name Mr. Laguna Lakes. (Tardiff 8/23/13 TT at 51-52). However, at least one or more residents have inquired about Marino's affiliation with the LLCA (Tardiff 8/23/13 TT 51-53).

Argument

Marino Was First to Use the MR. LAGUNA LAKES trademark and LAGUNA LAKES Logo in Commerce and Has Priority Over LLCA and the Marks Are Confusingly Similar

The registration of the LAGUNA LAKES applications should be refused because Marino used the mark MR. LAGUNA LAKES prior to LLCA in commerce and because the LAGUNA LAKES applications are applied-for services that are confusingly similar to Marino's real estate services. It is well settled that "rights in a trademark are determined by the date of the mark's first use in commerce. The

party who first uses a mark in commerce is said to have priority over other users.” *Hana Fin., Inc. v. Hana Bank*, 135 S.Ct. 907, 909 (U.S. 2015); See also, 15 U.S.C. Section 1057(c).

To the extent opposer alleges rights based upon use, as opposed to registrations, opposer is obliged to prove its use and that such use was prior to applicant’s priority date. See, *Sanyo Watch Co. v. Sanyo Elec. Co., Ltd.*, 691 F.2d 1019, 215 USPQ 833, 834 (Fed. Cir. 1982); *Tea Forte, Inc. v. Dr. Dunner AG*, 2012 TTAB LEXIS 371, 16-17 (Trademark Trial & App. Bd. 9/30/12).

In this case Marino used the MR. LAGUNA LAKES trademark in commerce for real estate services prior to the LLCA began using the LAGUNA LAKES trademarks. Marino proved his priority of use by testifying and introducing documents evidencing his extensive use of the MR. LAGUNA LAKES trademark. (Marino TT 33-46). LLCA, however, could not even testify conclusively when it first used the LAGUNA LAKES trademarks in commerce. . Although LLCA, falsely placed in its trademark applications that its first use in commerce was October 2003, the trial testimony of Bob Hajicek and Patrick Tardiff, two of the members of the LLCA board, were unable to corroborate or provide any competent evidence to prove this date. (Hajicek TT 3/3/15 at 21, 32-37).

Marino first used the MR. LAGUNA LAKES trademark as early as February 2003 during the grand opening of the development when he sold 11 properties during the first day of sales (Marino TT 21-22). Thereafter, Marino began extensively using the Laguna Lakes name in August 2004 when he

started to print business cards with the MR. LAGUNA LAKES trademark. Marino testified that he has continuously used the Laguna Lakes marks, both name and logo, since 2004 in the form of post-cards to residents, bus shelter signs, street signs, and web-sites. In fact, Marino is the current owner of the former Transeastern domain name www.lagunalakes.com.

While Transeastern used the Laguna Lakes name and logo it created from 2003 until 2005 to sell its real estate, its intellectual property was then transferred to TOUSA who then filed bankruptcy on or about May 15, 2013.(Tardiff 8/23/13 TT at 119). While the Laguna Lakes name and logo were used on monument signs outside the perimeter of the development, since 2005, it is undisputed that those monument signs are owned by the LLCDD, not LLCA. (Marino TT at 13-16, 56). At best, LLCA started using the LAGUNA LAKES in commerce as of 2006 when it began to operate its web-site lagunalakesassociation.com. The testimony of the LLCA Board is that, while it cannot pinpoint exactly when it first started using the Laguna Lakes marks, that it somehow gained control of these marks by osmosis due to its one time relationship with the builder, Transeastern. (Hajicek TT 3/3/15 at 21, 32-37). This is certainly not competent evidence sufficient to support when LLCA first started using the marks in commerce to show priority over Marino.

In any event, there is no evidence that Transeastern was operating a community association in commerce, thus even if Transeastern's use of the LAGUNA LAKES marks inured to the benefit of the LLCA, LLCA would be offering services never offered by Transeastern. The law is clear that when a

mark is used by a related company, the use of the mark insures to the benefit of the party who controls the nature and quality of the goods or services. This party is the owner of the mark and therefore, the only party who may apply to register the mark. *Smith Int'l Inc. v. Olin Corp*, 209 USPQ 1033, 1044 (TTAB 1981). Based upon all of the testimony and exhibits, Transeastern was the party that was controlling the nature and quality of the goods and services offered under the LAGUNA LAKES trademark in an effort to sell real estate. LLCA had no role in controlling the nature and quality of LAGUNA LAKES at any time. Moreover, in order for LLCA to rely upon Transeastern's use of the LAGUNA LAKES marks, Transeastern would have been required to have been using the marks in connection with the same goods or services recited in LLCA's application. *In re Admark*, 214 USPQ 302, 303 (TTAB 1982)(finding that related-company use was not an issue where the applicant sought registration of a mark for advertising-agency services and the purported related company used the mark for retail-store services). This was not the case.

To allow LLCA to register the LAGUNA LAKES applications is likely to cause consumer confusion as to the source of the services provided by Marino and LLCA in that the MR LAGUNA LAKES trademark is substantially the same (in sight, sound and appearance other than the inclusion of the non-dominant word "Mr.") and the services that are provided by Marino and LLCA are similar enough to cause confusion. Especially where, as here, LLCA originally claims in its trademark applications that it is "promoting the use of and managing the maintenance of real estate," but based upon its web-site it is also now attempting

to sell and rent real estate on its web-site.

http://www.lagunalakesassociation.com/lagunalakes/property4sale_list.asp

Some of the factors for this Board to consider as to likelihood of confusion should be: (1) that the marks used by Marino and LLCA are similar in sound and commercial impression; (2) that there is a similarity in the services provided by Marino and LLCA; (3) that there apparently has been some confusion in that at least one homeowner had asked the board whether Marino was somehow affiliated with the LLCA (Tardiff 8/23/13 TT 51-53). See, *E.I. Du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (C.C. P.A. 1973). Based upon Marino's priority in use over LLCA and the possible likelihood of confusion, registration of the LLCA's marks must be refused.

Finally, even if this Board determines that LLCA has priority over Marino and that the marks are not confusingly similar, LLCA would still not be entitled to registration in that it has never used the LAGUNA LAKES marks in interstate commerce. The only use of the mark by LLCA has been in the local Ft. Myers area. The testimony of LLCA is that all it has ever done is collect assessments and maintain purely local common areas. LLCA does not today nor has it ever marketed or provided any services in interstate commerce. After all, the very purpose of a homeowners association is to provide services to its local residents, not out of state or international ones.

Moreover, LLCA's use of the Laguna Lakes logo is not as a service mark at all. Ostensibly, the LLCA uses the Laguna Lakes logo and words Laguna Lakes words solely to identify the area in Fort Meyer, Florida, not as a source

identifier. This is abundantly clear from its website at the domain www.lagunalakesassociation.com. No “TM” device is used whatsoever with the Laguna Lakes words that appear on its website, and there is no association between any services purportedly offered on its website with the logo. Thus, LLCA’s use of the terms Laguna Lakes is ornamental and must be refused. Indeed, matter that is merely ornamental in nature does not function as a service mark. See *In re Tad’s Wholesale, Inc.*, 132 USPQ 648 (TTAB 1962) (wallpaper design not registrable as a service mark for restaurant services). Use of a designation or slogan to convey advertising or promotional information, rather than to identify and indicate the source of the services, is not service mark use.

The question of whether a designation functions as a mark that identifies and distinguishes the recited services is determined by examining the specimen(s) and any other evidence in the record that shows how the designation is used. *In re Morganroth*, 208 USPQ 284 (TTAB 1980); *In re Republic of Austria Spanische Reitschule*, 197 USPQ 494 (TTAB 1977). It is the perception of the ordinary customer that determines whether the asserted mark functions as a service mark, not the applicant’s intent, hope, or expectation that it do so. *In re Standard Oil Co.*, 275 F.2d 945, 125 USPQ 227 (C.C.P.A. 1960). In this case, the specimen provided by LLCA is merely a website screen shot that shows no connection between the Laguna Lakes logo and any services – it merely serves to identify the community. This is apparent as the Laguna Lakes logo is prominently displayed on its homepage on a community sign, which no resident of the Laguna Lakes area would associate with LLCA. Simply, LLCA’s

use of the Laguna Lakes words and logo is not as a source identifier thus registration should be refused.

The Laguna Lakes Proposed Trademarks are Primarily Geographically Descriptive and Should be Refused Registration

“Whether a mark is geographically descriptive ...is a question of fact.” *In re Compangie Generale Mar.*, 993 F.2d 841, 845 (Fed. Cir. 1993). The policy rationale for refusing to register such marks is that allowing such registration would preempt other merchants from the named location from identifying the origin of their goods. *In re Newbridge Cutlery Co.*, 776 F.3d 854,858 (Fed. Cir. 2015) citing to *In re Plymouth Motor Corp.*, 46 F.2d 211, 213, 18 C.C.P.A. 838, 1931 Dec. Commr Pat. 102 (C.C.P.A. 1931)(“a geographical name or term by which is meant a term denoting locality cannot be exclusively appropriated as a trade-mark because such a term is generic or descriptive, and anyone who can do so truthfully is entitled to use it”). See generally, *In re Pittsburgh Glass Works, LLC*, 2012 TTAB LEXIS 131 (4/11/12)(registration of Pittsburgh Glass Works on grounds that is geographically descriptive); *In re East Coast Towing & Storage, LLC*, 2011 TTAB LEXIS (3/28/11)(refusal of registration of East Coast Towing & Storage); *In re Laura’s Lean Beef Company*, 2011 TTAB LEXIS (6/8/11)(refusal of registration of North American Range for beef); *In re Fire Island Brewing Company, LLC*, 2011 TTAB LEXIS 290 (9/23/11); *In re Geskes*, Serial Number 77911173 (2/9/12)(denial of registration of the Munich).

There are many probative factors to the question of whether a location is generally known. *In re Lowe’s Theatres, Inc.*, 769 F.2d 764, 767 (Fed. Cir. 1985)(if a population of a location is sizeable and or members of the consuming

public have ties to the location it would be evidence that a place is generally known); *In re Nantucket*, 677 F.2d 95, 99 (C.C.P.A. 1982)(if the geographic meaning of a location is “minor, obscure (or) remote” then that location is not generally known). In establishing the goods/place association, there must only be a reasonable predicate for the conclusion that the public would likely make the particular goods/place association on which it relies. *In re Newbridge Cutlery Co.*, at 861. An actual association does not need to be shown in consumer’s minds. *Id.*

A mark is considered to be primarily geographic if (1) it is the name of a place and this place is general known to the public, and (2) the public would make a goods/place association that is, believe that the goods or services for which the mark is sought to be registered originate in that place. *In Re Geskes*, Serial No. 77911173 (2/9/12). In this case, there is no doubt Laguna Lakes is generally known to the public as it is a very popular well known area of Southern California.. In addition, it is quite likely that persons could mistake the Laguna Lakes development as being located in California. In fact, it appears to have been the goal of the builder, Transeastern, to make Laguna Lakes feel like a part of California in Southwest Florida given the name of the development, the streets and each of the parcels. (this indicates the mark may be intentionally geographically misdescriptive). To the extent LLCA argues that LAGUNA LAKES is a coined residential community, Marino points out that Google maps even identifies “Laguna Lakes” with defined boundaries and being a residential location in Fort Myers, Florida.

<https://www.google.com/webhp?sourceid=chromeinstant&ion=1&espv=2&ie=UTF-8#q=laguna%20lakes%20florida>.

Moreover, the fact that the mark identifies more than one geographic location does not necessarily detract from the term's primary geographic significance. See, e.g. *In re Lowe's Theatres, Inc.*, 769 F.2d 764, 226 USPQ 865 (Fed. Cir. 1985)(DURANGO held primarily geographically deceptively misdescriptive of chewing tobacco not grown in Durango, Mexico, where the evidence of record showed that tobacco is a crop produced and marketed in that area, even though there is more than one place named Durango); *In re Cambridge Digital Sys.*, 1 USPQ2d 1659, 1662 (TTAB 1986)(CAMBRIDGE DIGITAL and design held primarily geographically descriptive of computer systems and parts thereof, where applicant's place of business is Cambridge, Massachusetts, even though there is more than one Cambridge). Thus, permitting registration of a name such as Laguna Lakes would potentially prohibit a whole area in Southern California from using the Laguna Lakes name.

Finally, by looking at the LLCA website, it is clear that LLCA is merely using LAGUNA LAKES as an ornamental description of the community. The website does not offer any services provided by the LLCA under the LAGUNA LAKES marks. The mark and logo are merely used to identify the area known as Laguna Lakes not to identify any brand or service.
http://www.lagunalakesassociation.com/lagunalakes/outside_home.asp.

Registration of the Laguna Lakes marks should be denied as geographically descriptive.

**LLCA Should Be Refused Registration of the LAGUNA LAKES
TRADEMARKS Based Upon Fraud**

The relevant standard for proving fraud is set forth *In re Bose Corp.*, 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009) which requires a showing of the following four elements: (1) applicant/registrant made a false representation to the USPTO; (2) the false representation is material to the registrability of the mark; (3) applicant/registrant had knowledge of the falsity of the representation; and (4) applicant/registrant made the representation with intent to deceive the USPTO. *O.T.H. Enters v. Vasquez*, 2102 TTAB LEXIS 374, 50-51 (Trademark Trial & App. Bd. Sept. 28, 2012). The critical question is whether, the applicant was using the mark, in commerce in connection with the identified goods as of the filing date of the use based applicant. *Colt Industries Operating Corp. v. Olivetti Controllo Numerico S.p.A.*, 221 USPQ 73, 76 (TTAB 1983).

LLCA in its applications for the LAGUNA LAKES trademarks made a number of false representations. First, it claimed first use in commerce as being October 6, 2003, for association services, when, the Applicant knew that that the Association had not even been turned over by Transeastern until sometime in 2005. Second, it claimed that its internet site was www.lagunlakes.com when it knew very well that it does not own that web site and in fact for its specimen, provides a print-out from a completely different site, www.lagunalakesassociation.com. LLCA knew these representations were untrue since LLCA's corporate representative could not identify when it first started using the LAGUNA LAKES marks, but it is clear that it only first started using the marks in 2006 when it created its own web-site. Given the testimony of

the LLCA and its stated intentions to attempt to prevent Marino from using the MR. LAGUNA LAKES mark and LAGUNA LAKES logo, there is certainly strong evidence that LLCA made the representations in its applications with the intent to deceive this Board.

Based upon the foregoing, registration of the LAGUNA LAKES marks should be refused.

Conclusion

Based upon all of the foregoing arguments, the registration of the LAGUNA LAKES marks should be refused.

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by electronic mail on this 19 day of August 2015 to: Donna M. Flammang, Esq., Brennan Manna & Diamond, P.L., 3301 Bonita Beach Road, Suite 100, Bonita Springs, FL 34134.

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