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

Proceeding	91207180
Party	Defendant Disney Enterprises, Inc.
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Signature	/Linda K. McLeod/
Date	05/02/2013
Attachments	FINAL Answer in GNOME TOWN Opposition (40006) (40013).pdf ( 5 pages ) (103368 bytes )



1. Admitted.

2. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 2 of the Notice of Opposition, and therefore denies them.

3. Applicant denies that Opposer is the owner of any trademarks or a family of trademarks comprised of or containing GNOME or GNOME.O. Applicant lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations in Paragraph 3 of the Notice of Opposition, and therefore denies them.

4. Applicant denies that Opposer has prior use of any marks comprised of or containing GNOME. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 4 of the Notice of Opposition, and therefore denies them.

5. Applicant denies that Opposer has superior rights or prior use in and to any marks comprised of or containing GNOME. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 5 of the Notice of Opposition, and therefore denies them.

6. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 6 of the Notice of Opposition, and therefore denies them.

7. Applicant denies that Opposer will be damaged by the registration of Applicant's GNOME TOWN mark. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 7 of the Notice of Opposition, and therefore denies them.

8. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 8 of the Notice of Opposition, and therefore denies them.

9. Denied.

10. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 10 of the Notice of Opposition, and therefore denies them.

### **AFFIRMATIVE DEFENSES & ALLEGATIONS**

11. Opposer has failed to state a claim upon which relief may be granted.

12. Opposer is estopped from bringing this action under the doctrines of estoppel, estoppel by agreement, licensee estoppel, and unclean hands.

13. Applicant, and not Opposer, is the owner of the GNOMEO & JULIET mark. Applicant, and not Opposer, has priority of use of marks comprised of or containing GNOME or GNOMEO.

14. Applicant reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Lanham Act, and any other defenses at law or in equity, that may now exist or in the future be available based on discovery and further factual investigation in this case.

WHEREFORE, Applicant prays that this opposition be dismissed with prejudice, and that Applicant's mark be granted registration.

Respectfully Submitted,

Dated: May 2, 2013

/Linda K. McLeod/  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 2, 2013, a true and correct copy of the foregoing Answer was served by United States first class mail, postage prepaid, on counsel for Opposer at the following address of record set forth below. A courtesy copy was also emailed to opposing counsel.

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**/Linda K. McLeod/**