ESTTA Tracking number: **ESTTA501759**
Filing date: **10/24/2012**

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

Proceeding	91207598
Party	Defendant IP Application Development LLC
Correspondence Address	ROBERT COHEN 2711 CENTREVILLE RD STE 400 WILMINGTON, DE 19808 ipadevel@gmail.com
Submission	Answer
Filer's Name	Jacob Bishop
Filer's e-mail	trademarks@dechert.com, glenn.gundersen@dechert.com, christine.hernandez@dechert.com
Signature	/Jacob Bishop/
Date	10/24/2012
Attachments	IPAD (Opp. No. 91207598) -- Answer.pdf (4 pages)(124308 bytes)

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

In re the matter of Application Serial No. 77/913,563

Mark: IPAD

Published in the *Official Gazette* on June 26, 2012

RXD MEDIA, LLC	:	
Opposer	:	
v.	:	Opposition No. 91207598
IP APPLICATION DEVELOPMENT LLC	:	
Applicant.	:	

ANSWER

Applicant IP Application Development LLC, by its attorneys, hereby answers the numbered paragraphs of the Notice of Opposition as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in the first numbered paragraph and they are therefore denied.

2. Applicant denies the allegation in the second numbered paragraph that "Opposer has used it distinctive IPAD mark." Specifically, Applicant states that Opposer's alleged mark, as shown in the specimen of use submitted in connection with Opposer's Application Serial No. 77/958,000 (attached hereto as Exhibit A), consists of the term IPAD.MOBI. Applicant further states that Applicant's specimen of use, wherein Opposer describes its service as an "Internet Notepad," demonstrates that Opposer's alleged mark IPAD is descriptive and not distinctive. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the second numbered paragraph and they are therefore denied.

3. Applicant admits that based on the records of the U.S. Patent and Trademark Office, Opposer appears to be the applicant of record of Application Serial No. 77/958,000 for the alleged mark IPAD for "providing temporary use of a web-based software application for mobile-access database management whereby users can store and access their personal information" in Class 42, that the application has a March 12, 2010 filing date, and that Opposer's Exhibit A appears to be a printout from the TESS database, but leaves Opposer to the proof thereof.

4. Applicant admits the allegations in the fourth numbered paragraph.

5. Applicant admits that it filed an application with the U.S. Patent and Trademark Office on January 16, 2010 to register the mark IPAD, that the application claims a priority filing date of July 16, 2009 based upon Trinidad and Tobago Application No. 41168, that the application is based upon Section 1(b) of the Trademark Act and thus does not claim a date of first use, and that Opposer's Exhibit B appears to be a printout from the TESS database concerning Applicant's application.

6. Applicant admits that the date September 1, 2007 is prior to the date of January 16, 2010. Applicant is without knowledge or information sufficient to form a belief as to the allegations in the sixth numbered paragraph concerning Opposer's use of its alleged IPAD mark, and they are therefore denied. Applicant denies the remaining allegations of the sixth numbered paragraph.

7. Applicant is without knowledge or information sufficient to form a belief as to Opposer's channels of distribution, and therefore denies the allegations in the seventh numbered paragraph.

8. The allegations in the eighth numbered paragraph constitute conclusions of law to which no response is required, and they are therefore denied.

9. Applicant is without knowledge or information sufficient to form a belief as to the allegations in the ninth numbered paragraph concerning Opposer's subjective belief that it will be damaged, and they are therefore denied. Applicant denies the remaining allegations of the ninth numbered paragraph.

10. The allegations in the tenth numbered paragraph constitute conclusions of law to which no response is required, and they are therefore denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Opposer's use of IPAD is merely descriptive of Opposer's "Internet Notepad", as shown in the specimen of use filed with its Application Serial No. 77/958,000, and has not acquired distinctiveness.

Second Affirmative Defense

The opposition is barred by the equitable doctrines of laches, acquiescence and estoppel. Opposer was aware of, but chose not to oppose, Applicant's affiliate's Application Serial Nos. 85/014,225 and 85/014,233 for the mark IPAD, and raised no objection for more than two years after the announcement and launch of the IPAD handheld computing device.

WHEREFORE, Applicant prays that this Opposition be dismissed with prejudice and that the registration of the mark shown in Application Serial No. 77/913,563 be granted.

Date: October 23, 2012

By: _____

Glenn A. Gundersen
Christine M. Hernandez
Jacob R. Bishop
Dechert LLP
Cira Centre, 2929 Arch Street
Philadelphia, PA 19104-2808
Telephone: 215-994-2183

Attorneys for Applicant
IP Application Development LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer has been duly served by mailing such copy first class, postage prepaid to Nicole D. Galli, Benesch Friedlander Coplan & Aronoff LLP, 1650 Market Street, Suite 3611, Philadelphia, PA 19103, on October 23, 2012.

_____
Jacob R. Bishop