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

Proceeding	91208121
Party	Defendant Thomas R. Saunders
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Hat World, Inc.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91208121
	)	
Aileen Sheron and	)	
Thomas R. Saunders	)	
	)	
Applicants.	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicants, Aileen Sheron and Thomas R. Saunders (“Applicants”) hereby submit their Answer to the Notice of Opposition (“Opposition”). As to the first unnumbered paragraph, Applicants are without sufficient information as to whether Hat World, Inc., is a corporation organized and existing under the laws of Minnesota, located and doing business at 7555 Woodland Drive, Indianapolis, IN 46278 and, therefore, denies same, leaving Opposer to its proofs. Applicants admit they are the owners of U.S. Serial No. 85/524,215, and state that they have the addresses of record of 519 Luminous, Irvine, California 92603 and P.O. Box 75, Kearney, Missouri 64040, respectively. Applicants deny the remaining allegations contained therein and requests that this opposition action be dismissed.

Here follows Applicants’ answers to the grounds of the opposition as set forth in the numbered paragraphs in the Opposition:

1. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Opposition and therefore deny the same, leaving Opposer to its proofs.

2. Applicants admit that the printout of the status copy of the registration for the registration identified in Paragraph 2 of the Opposition were attached. Applicants also admit that the registration cited in Paragraph 2 identifies Opposer as the registrant. But Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether Opposer is currently the owner of the registration, and, therefore, deny the same, leaving Opposer to its proofs.

3. Applicants admit that the printout of the status copy of the registration for the registration identified in Paragraph 3 of the Opposition were attached. Applicants also admit that the registration cited in Paragraph 3 identifies Opposer as the registrant. But Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether Opposer is currently the owner of the registration, and, therefore, deny the same, leaving Opposer to its proofs.

4. Applicants admit that the printout of the status copy of the registration for the registration identified in Paragraph 4 of the Opposition were attached. Applicants also admit that the registration cited in Paragraph 4 identifies Opposer as the registrant. But Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether Opposer is currently the owner of the registration, and, therefore, deny the same, leaving Opposer to its proofs.

5. Applicants admit that the printout of the status copy of the registration for the registration identified in Paragraph 5 of the Opposition were attached. Applicants also admit that the registration cited in Paragraph 5 identifies Opposer as the registrant. But Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations

concerning whether Opposer is currently the owner of the registration, and, therefore, deny the same, leaving Opposer to its proofs.

6. Applicants admit that the printout of the status copy of the registration for the registration identified in Paragraph 6 of the Opposition were attached. Applicants also admit that the registration cited in Paragraph 6 identifies Opposer as the registrant. But Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether Opposer is currently the owner of the registration, and, therefore, deny the same, leaving Opposer to its proofs.

7. Applicants admit that the printout of the status copy of the registration for the registration identified in Paragraph 7 of the Opposition were attached. Applicants also admit that the registration cited in Paragraph 7 identifies Opposer as the registrant. But Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether Opposer is currently the owner of the registration, and, therefore, deny the same, leaving Opposer to its proofs.

8. Applicants admit that the printout of the status copy of the application for the application identified in Paragraph 8 of the Opposition were attached. Applicants also admit that the application cited in Paragraph 8 identifies Opposer as the applicant. But Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether Opposer is currently the owner of the application, and, therefore, deny the same, leaving Opposer to its proofs.

9. No response to Paragraph 9 is required and Applicant does not deny the content therein.

10. Applicants admit the allegations of paragraph 10 of the Opposition.

11. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of the Opposition and therefore deny the same, leaving Opposer to its proofs.

12. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12 of the Opposition and therefore deny the same, leaving Opposer to its proofs.

13. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13 of the Opposition and therefore deny the same, leaving Opposer to its proofs.

14. Applicants deny the allegations of paragraph 14 of the Opposition.

15. Applicants deny the allegations of paragraph 15 of the Opposition.

16. Applicants deny the allegations of paragraph 16 of the Opposition.

17. Applicants deny each and every other averment made in the Opposition not herein expressly admitted.

#### AFFIRMATIVE DEFENSES

1. The Notice of Opposition fails to state a claim upon which relief can be granted and, in particular, fails to state legally sufficient grounds for sustaining the opposition.

2. Applicants' use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer with Opposer's authorization or approval.

3. Applicants' mark in its entirety is sufficiently distinctive from Opposer's mark so as to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicants' goods.

4. Applicants' mark, when used on Applicants' goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicants with Opposer, or as to the origin, sponsorship, or approval of Applicants' goods by Opposer.

5. Upon information and belief, Opposer's pleaded marks already coexist with numerous third party "ROCK" or "ROCKS" formative marks, and phonetically equivalent marks, as reflected by the Principal Register. Opposer is coexisting with such third-party marks without confusion. By virtue of Opposer's ability to coexist with such third-party marks, Opposer can coexist with Applicants' mark.

6. Opposer's alleged rights in its trademark, ROCK and THE ROCK are weak and not entitled to a wide scope of protection because of the extensive third-party use of marks containing the terms ROCK, ROCKS, or phonetically equivalent terms.

7. The opposition is barred by estoppel.

8. The opposition is barred by the doctrine of waiver.

9. The opposition is barred by the doctrine of unclean hands.

10. Opposer's cited and pending application, Serial No. 85/685/852, is not a proper basis for the opposition because it was filed after the application at issue in this dispute.

11. Opposer's cited and pending application, Serial No. 85/685/852, should not proceed to registration because the specimens do not match the mark as filed and constitute a mutilation of the ROCK trademark.

12. Opposer, at the time it filed its cited and pending application for ROCK, Serial No. 85/685/852, stated that the mark was ROCK, although its trademark specimens do not show use of that mark, but show use of THE ROCK. Opposer, had knowledge, when making

its application and sworn declaration therein, that its statement was using ROCK (without "THE") for the goods identified therein was false and/or misleading. Opposer's deceptive statement was made knowingly for purposes of deceiving the U.S. Patent and Trademark Office to secure rights for a mark that are broader than to which it is entitled and, thus, constitutes fraud.

13. Applicants reserve their rights to assert counterclaims and to seek cancellation of any registered marks asserted by Opposer as part of its grounds for opposing registration of Applicants' mark, as may be determined through discovery.

WHEREFORE, Applicants pray that the Opposition be dismissed and that Applicants' mark be passed to allowance.

Respectfully submitted,

HOVEY WILLIAMS LLP

By s/ Joan Optican Herman

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AILEEN SHERON and  
THOMAS R. SAUNDERS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was deposited with the United States Postal Service as first class mail, postage prepaid, on this 14th day of December, 2012 to:

David L. May  
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ATTORNEYS FOR OPPOSER  
HAT WORLD, INC.

s/ Joan Optican Herman