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Filing date: **07/23/2014**

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

Proceeding	91212112
Party	Defendant Jordan Gerberg
Correspondence Address	MATTHEW H SWYERS THE TRADEMARK COMPANY 344 MAPLE AVENUE WEST SUITE 151 VIENNA, VA 22180-5612 UNITED STATES mswyers@thetrademarkcompany.com
Submission	Motion for Summary Judgment
Filer's Name	Matthew H. Swyers
Filer's e-mail	mswyers@thetrademarkcompany.com
Signature	/Matthew H. Swyers/
Date	07/23/2014
Attachments	Motion for Summary Judgment.pdf(230412 bytes ) Motion for Summary Judgment Exhibits.pdf(395691 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

Serial No. 85/859,169;



For the mark Q and Design:

Quintessential Brands S.A.,

Opposer,

vs.

Gerberg, Jordan,

Applicant.

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Opposition No. 91212112

**MOTION FOR SUMMARY JUDGMENT**

COMES NOW the Applicant, Jordan Gerberg (hereinafter “Applicant”), by and through counsel, The Trademark Company, PLLC, and pursuant to TBMP § 528 *et seq.* files the instant Motion for Summary Judgment on the grounds that there are no genuine issues of material fact as to Opposer's claim of a likelihood of confusion between the party’s marks herein. In support of the instant motion, Applicant states as follows:

**STATEMENT OF CASE**

Opposer, Quintessential Brands S.A. (hereinafter “Opposer”) filed the instant Notice of Opposition against Applicant’s Federal Trademark Application Serial No. 85/859,169 for the mark Q and

Design  based on the allegations of priority and likelihood of confusion with Opposer’s



Claimed Mark, namely: Q QUINTESSENTIAL and Design  as more fully identified in U.S. Registration No. 3,224,142. Even considering that, for purposes of this Motion only, the Board must assume the truth of the factual allegations set forth in Opposer's Notice of Opposition, there is no

likelihood of confusion due to the complete dissimilarity of the marks at issue. As such, Opposer's claim that the parties' concurrent use of their respective marks will result in a likelihood of confusion must fail as a matter of law and the opposition should be dismissed.

Accordingly, the instant Motion for Summary Judgment has been submitted so that the Board may now dispose of this matter in the interest of judicial economy.

### STATEMENT OF FACTS

1. On or about February 25, 2013 Applicant filed a Federal Intent-to-Use Trademark

Application for the Mark  and Design (“Applicant’s Mark”) for use in connection with the following goods, namely: “Distilled Spirits; Spirits; Spirits and liqueurs;” (“Applicant’s Goods”) in International Class 33.

2. Applicant’s Application for Applicant’s Mark was assigned Serial No. 85/859,169.

3. On or about August 21, 2013 Opposer filed a Notice of Opposition against Applicant’s Application for Applicant’s Mark based on the grounds of priority of use and likelihood of confusion with

Opposer’s Claimed Mark:  Q QUINTESSENTIAL and Design as more fully identified in U.S. Registration No. 3,224,142 (hereinafter “Opposer’s Mark”) for use in connection with the following goods, namely: “alcoholic beverages, namely gin;” (“Opposer’s Goods”) in International Class 33 (See Exhibit 1).

4. On or about August 27, 2013 Applicant filed its Answer and Ground of Defense in response to Opposer’s Notice of Opposition (See Exhibit 2).

5. On or about October 30, 2013 the parties conducted the Discovery Conference in this matter.

6. On or about November 29, 2014 the parties’ exchanged Initial Disclosures.

7. On or about January 9, 2014 Applicant served its First Requests for Production of Documents and First Requests for Interrogatories to Counsel for Opposer.

8. On or about January 16, 2014 Applicant served its First Requests for Admissions to Counsel for Opposer.

9. On or about February 10, 2014 Opposer served its Responses to Applicant's First Requests for Production of Documents and Applicant's First Requests for Interrogatories and Applicant's First Set of Admissions to Counsel for Applicant.

10. On or about April 1, 2014 Opposer served its First Requests for Production of Documents and First Requests for Interrogatories and First Requests for Admissions to Counsel for Applicant.

11. On or about April 28, 2014 Counsel for Applicant filed a thirty (30) day Motion to Extend all dates in the instant proceeding with consent of Opposer as the parties were not able to complete discovery and were involved in settlement discussions at the time of filing said consent motion.

12. The Board granted the stipulated extension of all dates in the instant proceeding on or about April 28, 2014 extending the discovery deadline until on or about May 28, 2014.

13. On or about May 6, 2014 Applicant served its Responses to Opposer's First Requests for Production of Documents and First Requests for Interrogatories and First Requests for Admissions to Counsel for Opposer.

14. On or about May 16, 2014 Applicant served its Supplemental Responses to Opposer's First Requests for Production of Documents and First Requests for Interrogatories.

15. On or about May 27, 2014 Opposed served its Second Request for Requests for Production of Documents and Second Requests for Interrogatories to Counsel for Applicant.

16. On or about June 2, 2014 Applicant received Opposer's Supplemental Responses to Applicant's First Set of Requests for Production of Documents.

17. On or about July 1, 2014 Applicant served its responses to Opposer's Second Set of Requests for Production of Documents and Second Requests for Interrogatories to Counsel for Opposer.

18. On or about July 11, 2014 Opposer served its Pretrial Disclosures on Counsel for Applicant.

### ARGUMENT

A motion for summary judgment is appropriate to dispose of cases in which "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." See generally *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986); *T.A.B. Systems v. PacTel Teletrac*, 77 F.3d 1372, 37 USPQ2d 1879, 1881 (Fed. Cir. 1996); *Dana Corp. v. Belvedere International Inc.*, 950 F.2d 1555, 21 USPQ2d 1047 (Fed. Cir. 1991); and *Copelands' Enterprises Inc. v. CNV Inc.*, 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991). The purpose of the motion is judicial economy, that is, to avoid an unnecessary trial where there is no genuine issue of material fact and more evidence than is already available in connection with the summary judgment motion could not reasonably be expected to change the result in the case.

This motion is based on the clear, incontrovertible differences between Applicant's Mark and Opposer's Mark which are so substantial as to make a determination of no likelihood of confusion appropriate as a matter of law. Determination of the existence of a likelihood of confusion is based on an analysis of the probative facts relevant to the likelihood of confusion factors set forth in *In re E. I. DuPont Debiemours & Co.*, 476 F.2d 1357, 1361 (CePA 1973). See *Shen Mfg. Co., Inc. v. The Ritz Hotel Ltd.*, 393 F.3d 1241 (Fed. Cir. 2004). Those factors are:

- (1) The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression;
- (2) The similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use;
- (3) The similarity or dissimilarity of established, likely-to-continue

trade channels;

(4) The conditions under which and buyers to whom sales are made, i.e.

"impulse" vs. careful, sophisticated purchasing;

(5) The fame of the prior mark (sales, advertising, length of use);

(6) The number and nature of similar marks in use on similar goods;

(7) The nature and extent of any actual confusion;

(8) The length of time during and conditions under which there has been concurrent use without evidence of actual confusion;

(9) The variety of goods on which a mark is or is not used (house mark, "family" mark, product mark);

(10) The market interface between applicant and the owner of a prior mark:

(a) a mere "consent" to register or use;

(b) agreement provisions designed to preclude confusion, i.e. limitations on continued use of the marks by each party;

(c) assignment of mark, application, registration and good will of the related business;

(d) laches and estoppel attributable to owner of prior mark and indicative of lack of confusion;

(11) The extent to which applicant has a right to exclude others from use of its mark on its goods;

(12) The extent of potential confusion, i.e., whether de minimis or substantial;

(13) Any other established fact probative of the effect of use;

It is well-established that a single DuPont factor may be dispositive in a likelihood of confusion analysis, and that where the marks are sufficiently dissimilar, there may be no likelihood of confusion

despite the presence of overlapping goods and trade channels. See *Champagne Louis Roederer S.A. v. Delicato Vineyards*, 148 F.3d 1373, 1375, 47 USPQ2d 1459, 1460-61 (Fed. Cir. 1998); and *Kellogg Co. v. Pack'em Enterprises*, 951 F.2d 330, 333, 21 USPQ2d 1142, 1145 (Fed. Cir. 1991) (“We know of no reason why, in a particular case, a single du Pont factor may not be dispositive.”) As conclusively shown below, the first Dupont factor- “[t]he similarity or dissimilarity of the marks in their entireties as to appearance, sound connotation and commercial impression”-by itself is dispositive of this case. *In re E. IDuPont Nemours & Co.*, 476 F.2d at 1361.

In the instant case, as in the case *Kellogg Co. v. Pack'em Enterprises, Inc.*, 951 F.2d 330 (Fed. Cir. 1991) and its lengthy line of cases following the Federal Circuits guidance therein, the marks at issue are completely dissimilar in their appearance, meaning, sound and overall commercial impressions. Moreover, Opposer has produced little to no evidence to support its claim that the registration of Applicant’s Mark will cause confusion with Opposer’s Mark. Applicant respectfully submits to the Board that this complete dissimilarity is sufficient to support a summary judgment of no likelihood of confusion between the marks at issue.

**I. The Relevant DuPont Factors Demonstrate No Likelihood of Confusion.**

**a. Appearance.**

In the instant case, Applicant seeks to register the mark Q and Design  (“Applicant’s Mark”) for use in connection with Applicant’s Goods, namely: “Distilled Spirits; Spirits; Spirits and liqueurs;” whereas, Opposer’s claimed mark cited as the basis for the instant opposition proceeding is Q

 (“Opposer’s Mark”) for use in connection with Opposer’s Goods, namely: “alcoholic beverages, namely gin”. Nowhere in Applicant’s Mark does the word “QUINTESSENTIAL” appear or its phonetic equivalent. Additionally, the marks at issue do not share the

same number of letters or words. The dominant term of Opposer's Mark is its company name: "QUINTESSENTIAL" which is not featured in Applicant's Mark. There are no visual similarities in the parties' marks beyond the standard character mark "Q" and stylized "Q". The inclusion of the letter "Q" or stylized "Q" is not enough to render the party's marks similar in their entirety. Moreover, Applicant's Design Mark consists of a very unique stylized agave piña filling the inside area of the letter "Q" and showing a distinctive pattern depicting the cut shape on the piña where the agave leaves are cut from the piña. Further, the bottom of the letter "Q" is depicted in a stylized shape of an agave leaf also displaying the distinctive pattern where the leaf is cut from the piña and is designed to form the bottom stem of the letter "Q". In comparison, Opposer's Design Mark is merely a large stylized letter "Q" accompanied by the dominant term "QUINTESSENTIAL". Nowhere in Opposer's Design Mark can Applicant's unique agave piña design be found. Furthermore, the graphic elements in each of the parties' design marks are very different and very distinctive in styling.

**b. Sound**

Just as the Applicant's Mark and Opposer's Mark are visually distinct from one another, the marks are also verbally dissimilar. See *Jet, Inc. v. Sewage Aeration Sys.*, 165 F.3d 419 (6th Cir.1999) (finding the marks JET and AEROB-A-JET visually and verbally distinct). The Opposer's Mark incorporates its company's name QUINTESSENTIAL a four-syllable word; whereas, the Applicant's Mark merely consists of the letter "Q". Moreover, the marks have only one syllable and letter in common, namely "Q." As such, the marks are strikingly phonetically dissimilar.

**c. Connotation and Commercial Impression.**

Also, there are significant differences between Opposer's Mark and Applicant's Mark such that they convey different connotations or commercial impressions. The connotation of Applicant's Mark requires more imagination and is more abstract as it is not accompanied by another dominant term such as a company name. In determining whether two marks have similar commercial impressions, the TTAB has looked at whether purchasers or prospective purchasers-who are familiar with the Opposer's mark-would mistakenly believe upon encountering the applicant's mark that the applicant's mark originated with the

Opposer. The weight given a particular element of a mark when comparing marks is determined from the perspective of the purchaser or potential purchaser of the goods or services. When a mark consists of a word portion, as does Opposer's Mark, the word portion is more likely to be impressed upon a purchaser's memory and to be used in calling for the goods or services. See e.g. *Amoco Oil Co., v. Amerco, Inc.*, 192 USPQ 729 (TTAB 1976). Thus, if the Board finds that a purchaser is more likely to note or remember the word elements, rather than the design portion of a mark, because that is the way that the goods will be called for, then the word elements are considered the dominant portion. In re Appetito Provisions Co. 3USPQ2d 1553 (TTAB 1987). Regarding Opposer's Mark, the word or company name



“QUINTESSENTIAL” is displayed prominently directly beneath the Opposer’s Design Mark

It is the word QUINTESSENTIAL that consumers are likely to pronounce, note and remember, and thus the word QUINTESSENTIAL should be given due weight in comparing the marks. Based on the



forgoing, no purchaser or prospective purchaser familiar with the Opposer’s Mark, which incorporates its company name, QUINTESSENTIAL would believe upon seeing the Applicant’s Mark,



namely Q and Design that the Applicant’s Mark or Applicant’s Goods originated with Opposer.

In sum, Applicant respectfully submits to the Board that based on the complete dissimilarities in the party’s respective mark’s appearance, sound, connotation and commercial impression a summary judgment of no likelihood of confusion between the marks at issue is appropriate.

## CONCLUSION

There are no genuine issues of material fact as to Opposer's claim of a likelihood of confusion that would preclude entry of summary judgment thereon in Applicant's favor. The first du Pont factor simply outweighs all of the other factors that might be relevant in this case. When the marks are considered in their entirety, they are so dissimilar in appearance, sound, connotation and meaning that their use by different parties is not likely to result in confusion. Opposer's claim that the parties' concurrent use of their respective marks is likely to cause confusion fails as a matter of law and the opposition should be dismissed.

DATED this 23<sup>rd</sup> day of July, 2014.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

Matthew H. Swyers, Esquire

344 Maple Avenue West, Suite 151

Vienna, VA 22180

Telephone (800) 906-8626 x 100

Facsimile (270) 477-4574

mswyers@TheTrademarkCompany.com

Attorney for Applicant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

Serial No. 85/859,169;  
For the mark Q and Design:



Quintessential Brands S.A.,

Opposer,

vs.

Gerberg, Jordan,

Applicant.

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Opposition No. 91212112

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I caused a copy of the foregoing this 23<sup>rd</sup> day of July, 2014 to be served, via first class mail, postage prepaid, upon:

Rachel Blue, Esq.  
McAfee & Taft  
1717 S. Boulder Suite 900  
Tulsa, OK 74119

Matthew H. Swyers/  
Matthew H. Swyers

ESTTA Tracking number: **ESTTA555191**

Filing date: **08/21/2013**

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

### Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

#### Opposer Information

Name	Quintessential Brands S.A.		
Entity	Corporation	Citizenship	Luxembourg
Address	121 Avenue De La Faiencerie L-1511 Luxembourg, LUXEMBOURG		

Attorney information	Rachel Blue McAfee & Taft 1717 S. Boulder Suite 900 Tulsa, OK 74119 UNITED STATES rachel.blue@mcafeetaft.com, diane.goswick@mcafeetaft.com Phone:918-574-3007
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#### Applicant Information

Application No	85859169	Publication date	07/23/2013
Opposition Filing Date	08/21/2013	Opposition Period Ends	08/22/2013
Applicant	Gerberg, Jordan P.O. Box 331 Aspen, CO 81612 UNITED STATES		

#### Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Distilled Spirits; Spirits; Spirits and liqueurs
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#### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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#### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3224142	Application Date	09/06/2005
Registration Date	04/03/2007	Foreign Priority Date	NONE
Word Mark	Q QUINTESSENTIAL		
Design Mark			
Description of Mark	NONE		



Goods/Services	Class 033. First use: First Use: 2005/07/10 First Use In Commerce: 2005/07/10 alcoholic beverages, namely gin
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Attachments	NOTICEOFOPPOSITIONQ85859169.pdf(1901612 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Rachel Blue/
Name	Rachel Blue
Date	08/21/2013

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

In re United States Application No. 85/859169  
Filing Date: February 25, 2013  
Mark: Q  
Published in the Official Gazette on July 23, 2013

Quintessential Brands S.A.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Jordan Gerberg,	)	
	)	
Applicant.	)	

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**NOTICE OF OPPOSITION**

Quintessential Brands S.A. (“Quintessential Brands”) hereby opposes registration of the mark of United States Application Serial No. 85859169 (the “Opposed Application”), which was filed by Jordan Gerberg, in International Class 33 on February 25, 2013. Quintessential Brands’ grounds for opposition are as follows:

1. Quintessential Brands S.A. is a company based in Luxembourg, with a principal place of business at 121 Avenue De La Faiencerie L-1511 Luxembourg, Luxembourg.
2. As listed in the Opposed Application, Jordan Gerberg is an individual U.S. citizen, with a principal address of P.O. Box 331 at Aspen, Colorado, 81612.

3. Applicant seeks to register the stylized mark “Q” on the Principal Register for “Distilled Spirits; Spirits; Spirits and liqueurs” in International Class 33.
4. The Opposed Application was filed February 25, 2013 under Section 1(b), based on a bona fide intent to use the mark in commerce.
5. The Opposed Application was published for opposition on July 23, 2013.
6. Quintessential Brands offers alcoholic beverages, namely gin, throughout the world, including in the United States.
7. At least as early as 2005, Quintessential Brands’ predecessor in interest began using in interstate commerce the distinctive trademark “Q Quintessential” in association with alcoholic beverages, namely gin (hereinafter, the “Q mark” or “Quintessential Brands’ mark”).
8. The Q mark has been continuously used in interstate commerce in connection with these goods since that time.
9. On September 6, 2005, Quintessential Brands’ predecessor in interest filed United States Application Serial No. 78/707115 to register the Q mark for “alcoholic beverages, namely gin” International Class 33 in the United States Patent and Trademark Office (“USPTO”).
10. On April 3, 2007, the USPTO issued United States Registration Number 3,224,142 for the Q mark on the Principal Register. A copy of that registration, now incontestable, is attached hereto as Exhibit “A” and incorporated herein.
11. Quintessential Brands has expended a great deal of effort and money to market and promote its goods associated with the Q mark. By carefully controlling the quality of the goods and services, Quintessential Brands has built up an excellent reputation and valuable goodwill in association with the Q mark.

12. The Opposed Application is for: "Distilled Spirits; Spirits; Spirits and liqueurs" in International Class 33.

13. The Opposed Application contains no restrictions on trade channels, nor the type of distilled spirits the Applicant intends to offer.

14. The goods and services identified in the Opposed Application directly overlap and/or are identical to the goods and services sold by Quintessential Brands in association with the Q Mark and covered by Quintessential Brands' registration for the Q Mark.

15. Both marks consist of a stylized letter Q and are thus virtually identical in appearance, sound, connotation and commercial impression.

16. Quintessential Brands' rights to the Q mark date back to at least as early as 2005. USPTO records indicate that the Applicant's earliest possible constructive use of the mark is February 23, 2013, the filing date of the 1(b) application. Quintessential Brands thus has priority of use.

17. If Applicant is allowed to register the Opposed Mark, it will obtain statutory rights to the mark that will conflict with and substantially degrade Quintessential Brands' rights in its above-mentioned and attached registration, as well as Quintessential Brands' superior common law rights to the Q mark.

18. Quintessential Brands' goodwill and reputation will be jeopardized by Applicant's registration of the Opposed Mark due to Quintessential Brands' lack of control over the quality of Applicant's goods and services.

19. Concurrent use and/or registration of the Opposed Mark and Quintessential Brands' Q mark is likely to cause confusion and lead to deception as to the origin of the goods that are associated with the Opposed Mark. Concurrent use and/or registration of the Opposed Mark and Quintessential Brands' Q mark would allow Applicant to be unjustly enriched by, and reap the benefit of, the goodwill and reputation that Quintessential Brands has developed in

association with the Q mark. Accordingly, registration of the Opposed Mark will be a source of damage and injury to Quintessential Brands.

WHEREFORE, Quintessential Brands prays that the Opposed Application be refused and that this Opposition be sustained and any other and further relief as is deemed just and proper.

Respectfully submitted,



Rachel Blue  
McAfee & Taft  
1717 S. Boulder Ave.  
Tulsa, Oklahoma 74119  
Phone: 918-574-3007  
Fax: 918-574-3107  
E-Mail: [rachel.blue@mcafeetaft.com](mailto:rachel.blue@mcafeetaft.com)

Attorneys for Opposer

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Applicant by mailing said copy this 21st day of August, 2013, via first class, certified mail, return receipt requested, to:

Matthew H. Swyers  
The Trademark Company  
344 Maple Avenue W PMB 151  
Vienna, Virginia 22180-5612

I further hereby certify that true and complete copy of the foregoing NOTICE OF OPPOSITION was transmitted electronically to the Commissioner for Trademarks at <http://estta.uspto.gov/filing-type.jsp>.



---

Rachel Blue  
McAfee & Taft  
1717 S. Boulder Ave.  
Tulsa, Oklahoma 74119  
Phone: 918-574-3007  
Fax: 918-574-3107  
E-Mail: [rachel.blue@mcafeetaft.com](mailto:rachel.blue@mcafeetaft.com)

Attorneys for Opposer

EXHIBIT "A"

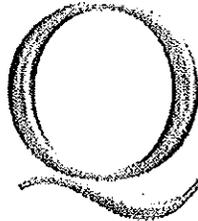
Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

United States Patent and Trademark Office

Reg. No. 3,224,142  
Registered Apr. 3, 2007

TRADEMARK  
PRINCIPAL REGISTER



QUINTESENTIAL

WHITE ROCK DISTILLERIES, INC. (MAINE  
CORPORATION)  
21 SARATOGA STREET  
LEWISTON, ME 04240

OWNER OF U.S. REG. NO. 2,376,974.

FOR: ALCOHOLIC BEVERAGES, NAMELY GIN,  
IN CLASS 33 (U.S. CLS. 47 AND 49).

SER. NO. 78-707,115, FILED 9-6-2005.

FIRST USE 7-10-2005; IN COMMERCE 7-10-2005.

JULIE WATSON, EXAMINING ATTORNEY

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

Serial No. 85/859,169  
For the mark Q

Quintessential Brands S.A.,	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91212112
	:	
Gerberg, Jordan,	:	
	:	
Applicant.	:	

**ANSWER AND GROUNDS OF DEFENSE**

COMES NOW the Applicant Jordan Gerberg (hereinafter "Applicant"), by and through counsel, The Trademark Company, PLLC, and files his Answer and Grounds of Defense to the Notice of Opposition and in response to Opposer's allegations states as follows:

**ANSWER**

Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first Introductory Paragraph of the Notice of Opposition and therefore denies the same. In response to the specifically enumerated paragraphs of the Notice of Opposition, Applicant responds as follows:

1. Applicant is without knowledge of the allegations set forth in Paragraph 1 of the Notice of Opposition and therefore denies the same.
2. Applicant admits the allegations set forth in Paragraph 2 of the Notice of Opposition.
3. Applicant is without knowledge of the allegations set forth in Paragraph 3 of the Notice of Opposition and therefore denies the same.
4. Applicant admits the allegations set forth in Paragraph 4 of the Notice of Opposition.



5. Applicant admits the allegations set forth in Paragraph 5 of the Notice of Opposition.
6. Applicant is without knowledge of the allegations set forth in Paragraph 6 of the Notice of Opposition and therefore denies the same.
7. Applicant is without knowledge of the allegations set forth in Paragraph 7 of the Notice of Opposition and therefore denies the same.
8. Applicant is without knowledge of the allegations set forth in Paragraph 8 of the Notice of Opposition and therefore denies the same.
9. Applicant is without knowledge of the allegations set forth in Paragraph 9 of the Notice of Opposition and therefore denies the same.
10. Applicant is without knowledge of the allegations set forth in Paragraph 10 of the Notice of Opposition and therefore denies the same. Applicant cannot verify the authenticity of the attached Exhibit A and therefore denies the same.
11. Applicant is without knowledge of the allegations set forth in Paragraph 11 of the Notice of Opposition and therefore denies the same.
12. Applicant admits the allegations set forth in Paragraph 12 of the Notice of Opposition.
13. Applicant admits the allegations set forth in Paragraph 13 of the Notice of Opposition.
14. Applicant denies the allegations set forth in Paragraph 14 of the Notice of Opposition and demands strict proof thereof.
15. Applicant denies the allegations set forth in Paragraph 15 of the Notice of Opposition and demands strict proof thereof.
16. Applicant denies the allegations set forth in Paragraph 16 of the Notice of Opposition and demands strict proof thereof.

17. Applicant denies the allegations set forth in Paragraph 17 of the Notice of Opposition and demands strict proof thereof.

18. Applicant denies the allegations set forth in Paragraph 18 of the Notice of Opposition and demands strict proof thereof.

19. Applicant denies the allegations set forth in Paragraph 19 of the Notice of Opposition and demands strict proof thereof.

Applicant further denies all allegations not specifically, actually or constructively, admitted in the foregoing paragraphs of this Answer and Grounds of Defense.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed.

Respectfully submitted this 27<sup>th</sup> day of August 2013.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/  
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Counsel for Applicant

