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

Proceeding	91214386
Party	Defendant SIGNS, HEATHER, SIGNS, LORI A
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Submission	Answer
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Date	02/14/2014
Attachments	UPLOAD- SIGNS LORI- ANSWER TO NOTICE OF OPPOSITION- OCOTILLO WELLS.pdf(265854 bytes )

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4 IN PRO PER

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8 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
9 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**  
10

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12 **TIERRA DEL SOL FOUR WHEEL** ) **Application Serial No. 85899999**  
**DRIVE CLUB,** ) **Opposition No. 91214386**  
13 **Opposer,** )  
14 **v.** ) **MARK: OCOTILLO WELLS**  
15 **LORI SIGNS and HEATHER SIGNS,** )  
16 **Applicants.** )  
17 )  
18 )

19 **ANSWER TO NOTICE OF OPPOSITION**

20 The following is the Answer of Applicant Lori Signs (“Applicant”), owner of Federal Trademark  
21 Application Serial No. **85899999** for the mark OCOTILLO WELLS (hereinafter “Applicant’s  
22 Mark”), by the self-represented Applicant, to the Notice of Opposition filed on January 8, 2014 by  
23 Tierra Del Sol Four Wheel Drive Club, (hereinafter “Tierra Del Sol” or “Opposer”), and assigned  
24 ESTTA Tracking number ESTTA580784.  
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1 Applicant sets forth the following in support of its position:

- 2 1. The Tierra Del Sol Four Wheel Drive Club of Santee, CA, Opposer, has no claim to the usage  
3 of the Mark OCOTILLO WELLS in commerce.
- 4 2. Opposer has previously held a weekend event at the area known as “OCOTILLO WELLS”  
5 and used the word OCOTILLO WELLS as merely a landmark for directions where their  
6 annual event is held.
- 7 3. There are many other clubs, organizations and business that use the OCOTILLO WELLS area  
8 for their events. These other groups also use the landmark “OCOTILLO WELLS” to give  
9 directions as to a location where their event is held.
- 10 4. The usage of the mark OCOTILLO WELLS does not appear on any of Opposer’s apparel, for  
11 any event, for at least the past (8) years. In fact no history of prior usage could be found on  
12 Opposer’s clothing or any other third parties usage.
- 13 5. Applicant spent extensive time researching Opposer’s prior usage of the Mark prior to  
14 applying for Trademark and found no prior usage.
- 15 6. Applicant has used the mark OCOTILLO WELLS in apparel sales and paraphernalia for  
16 many years.
- 17 7. Opposer was greatly aware of this usage of this mark even **prior** to Applicant’s application  
18 for trademark of usage of Tierra Del Sol 85899999 G & S: Educational services, namely,  
19 providing workshops for sharing information, news, and commentary in the fields of  
20 responsible off road vehicle activities and environmental conservation; Providing information,  
21 news and commentary in the field of recreation and leisure activities.

- 22 a. FIRST USE: 2011/12/31.



- 1 3. Applicant is without knowledge or information sufficient to form a belief as to the truth of  
2 allegations contained in paragraph 1 of the Notice of Opposition. Since Applicant can neither  
3 admit nor deny the paragraph as written, Applicant must deny.
- 4 4. Applicant is without knowledge or information sufficient to form a belief as to the truth of  
5 allegations contained in paragraph 1 of the Notice of Opposition. Since Applicant can neither  
6 admit nor deny the paragraph as written, Applicant must deny.
- 7 5. Applicant is without knowledge or information sufficient to form a belief as to the truth of  
8 allegations contained in paragraph 1 of the Notice of Opposition. Since Applicant can neither  
9 admit nor deny the paragraph as written, Applicant must deny.
- 10 6. Applicant is without knowledge or information sufficient to form a belief as to the truth of  
11 allegations contained in paragraph 1 of the Notice of Opposition. Since Applicant can neither  
12 admit nor deny the paragraph as written, Applicant must deny.
- 13 7. Denied. False and Misleading. There are many larger four wheeling/ off road events held on  
14 the West Coast.
- 15 8. Denied. False and Misleading. The Mark was not used in Commerce, it was merely used as a  
16 location as to where the Opposer's annual weekend event was held. Many other Clubs,  
17 businesses and Organizations use the word "OCOTILLO WELLS" as a location identifier of  
18 where events are held.
- 19 9. Denied. False and Misleading. Opposer has not used the mark OCOTILLO WELLS in  
20 offering to sell and the selling of their shirts or apparel. Opposer has not used the mark  
21 OCOTILLO WELLS on annual event apparel at least the past (8) years. In fact no history of  
22 prior usage on Opposer's clothing could be found.
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1 10. Denied. False and Misleading. Opposer has not used the mark OCOTILLO WELLS on any t-  
2 shirts or other event paraphernalia. Opposer has not used the mark OCOTILLO WELLS on  
3 annual weekend event apparel at least the past 8 years. In fact no history of prior usage on  
4 Opposer's clothing could be found. The mark was only used in directions of the location of  
5 their once a year event.  
6

7 11. Denied. False and Misleading. Many others have received media recognition with services  
8 offered in the OCOTILLO WELLS area, not exclusively Tierra Del Sol Four Wheel Drive  
9 Club. In fact there is no proof that Opposer has received any of National media coverage with  
10 the use of the mark "OCOTILLO WELLS".  
11

12 12. Denied. False and Misleading. Many organizations are involved not, exclusively the Opposer.

13 13. Denied. False and Misleading. Many others Companies, Businesses, organizations have used  
14 the mark the "Tierra Del Sol," "Tierra Del Sol Desert Safari," "TDS," and "TDS Desert  
15 Safari," "TDS Truckhaven," "TDS Ocotillo Wells," in commerce for many years. These  
16 marks are generic, blurred and greatly diluted.  
17

18 14. Denied. False and Misleading. This mark is merely used for direction of location of Opposer's  
19 annual year event. This does not constitute by no means a distinguished mark to Opposer. The  
20 mark is used by many for directions for a location of their event.  
21

22 15. Denied. False and Misleading. There is no distinction or goodwill available for Opposer.  
23 Opposer has no exclusives rights. Usage of a mark for location of an annual event does not  
24 earn Opposer's rights.  
25

26 16. Denied. False and Misleading. Many other clubs and organizations use OCOTILLO WELLS  
27 as a direction to the location as were their event is held. Opposer has no rights.  
28

- 1 17. Denied. False and Misleading. There are many nationally known four wheel drive events.  
2 There are many numerous known four wheel drive events held in the OCOTILLO WELLS  
3 area. Speculation. Opposer has no rights.  
4
- 5 18. Denied. False and Misleading. There are many clubs, organizations and business that host  
6 events at OCOTILLO WELLS and Ocotillo Wells. "Tierra Del Sol," "Tierra Del Sol Desert  
7 Safari," "TDS," and "TDS Desert Safari," marks have been used in commerce by many for  
8 years which has greatly diluted, blurred and has made these marks generic.
- 9 19. Denied. False and Misleading. Applicant admits knowledge of Opposer's Tierra Del Sol 4  
10 Wheel Drive Club event. Applicant denies knowledge of marks used by Opposer. Many  
11 businesses and organizations have used the words "Tierra Del Sol," "Tierra Del Sol Desert  
12 Safari," "TDS," and "TDS Desert Safari," in commerce which greatly dilutes and has made  
13 these marks generic and blurred.  
14
- 15 20. Admitted.
- 16 21. Denied. False and Misleading. Many others Companies, Businesses, organizations have used  
17 the mark the "Tierra Del Sol," "Tierra Del Sol Desert Safari," "TDS," and "TDS Desert  
18 Safari," in commerce for years which greatly dilutes and has made these marks generic and  
19 blurred.  
20
- 21 This is a slanderous accusation. Should Opposer willfully choose to continue with current  
22 course of action, Applicant will not hesitate to pursue further legal action against Opposer  
23 including, but not limited to, civil action and/or criminal complaints.  
24
- 25 22. Denied. False and Misleading. Applicant denies. Many others Companies, Businesses,  
26 organizations have used the mark the "Tierra Del Sol," "Tierra Del Sol Desert Safari,"  
27

1 “TDS,” and “TDS Desert Safari,” in commerce for years which greatly dilutes and has made  
2 these marks generic and blurred.

3  
4 **APPLICANT’S ANSWER TO OPPOSER’S CLAIM OF APPLICANT’S**  
5 **IMPROPER USE OF THE OCOTILLO WELLS MARK**  
6

7 23. Admitted.

8 24. Admitted.

9 25. Denied. False and Misleading. There is no relation. Opposer uses the mark OCOTILLO  
10 WELLS as only a landmark to provide directions to their small annual event.

11 26. Denied. False and Misleading. Opposer has no legal right to the mark OCOTILLO WELLS to  
12 grant authorization.

13 27. Denied. False and Misleading. Opposer has no legal rights to the mark OCOTILLO WELLS.  
14 Applicant’s usage is authorized.

15 28. Denied. False and Misleading. Opposer has no legal prior rights to the mark OCOTILLO  
16 WELLS.

17 29. Denied. False and Misleading. Opposer has no legal prior rights to the mark OCOTILLO  
18 WELLS being granted to Applicant.

19 30. Denied. False and Misleading. Opposer has no legal prior right to mark OCOTILLO  
20 WELLS.

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1 39. Denied. False and Misleading. Opposer has no rights to mark OCOTILLO WELLS.

2 Applicant has used OCOTILLO WELLS mark in Commerce for years.

3 40. Denied. False and Misleading. Opposer has no rights to mark OCOTILLO WELLS. Applicant

4 has used mark OCOTILLO WELLS in commerce for years. There is no confusion.

5 41. Denied. False and Misleading. Opposer has no prior usage rights to mark OCOTILLO  
6 WELLS.

7 42. Denied. False and Misleading. Opposer will not be damaged. Opposer has had no gain in  
8 alleged usage of mark OCOTILLO WELLS for T- shirts and Paraphernalia. There is no prior  
9 usage Opposer's apparel does not bear mark OCOTILLO WELLS.

10 43. Denied. False and Misleading. Opposer will not be damaged.

11 44. Denied. False and Misleading. Opposer has no prior usage rights. Opposer used mark as  
12 directions to a location to their once a year event.

13 **COUNT TWO**

14 **Applicant's Mark is Merely Descriptive**

15 45. Applicant denies herein by reference each and every allegation in Opposer's preceding  
16 paragraphs.

17 46. Denied. False and Misleading. Opposer has an annual weekend event where Opposer sells  
18 their event t-shirts at in the OCOTILLO WELLS area. Opposer's T shirt does not display the  
19 usage of the mark OCOTILLO WELLS and has not for over (8) years. Opposer has no prior  
20 rights to the mark OCOTILLO WELLS. The mark was merely used by the Opposer as to a  
21 location of where their event was held.

1 47. Denied. False and Misleading. The mark OCOTILLO WELLS has been used only by other  
2 third parties merely for direction of location to their event. Third parties have no legal usage  
3 rights of Mark. Speculation.

4 48. Denied. False and Misleading. The mark OCOTILLO WELLS has only been used by other  
5 third parties merely as a landmark used to provide directions to their event. Third parties have  
6 no legal usage rights of Mark. Speculation.  
7

8 49. Denied. False and Misleading. Applicant has sole rights to OCOTILLO WELLS mark.  
9 Applicant's usage of mark was in commerce, not merely directions of a location of an event.

10 50. Denied. False and Misleading. Applicant's mark OCOTILLO WELLS has achieved  
11 secondary meaning by usage in commerce.  
12

13 51. Denied. False and Misleading. Applicant's mark has achieved secondary use.

14 52. Denied. False and Misleading. Applicant's mark is not merely descriptive.

15 **COUNT THREE**

16 **APPLICANT'S MARK IS GENERIC**

17 53. Applicant denies herein by reference each and every allegation in Opposer's preceding  
18 paragraphs.  
19

20 54. Denied. False and Misleading. Opposer or third party alleged usage was merely as a landmark  
21 used to provide directions to the location of an event.

22 55. Denied. False and Misleading. No evidence. Opposer or third party alleged usage was merely  
23 as a landmark used to provide directions to the location of an event.  
24

25 56. Denied. False and Misleading. No evidence. Opposer or third party alleged usage was merely  
26 as a landmark used to provide directions to the location of an event.  
27

1 57. Denied. False and Misleading. Applicant's Mark OCOTILLO WELLS has acquired  
2 secondary meaning.

3 58. Denied. False and Misleading to the Court. Applicant's mark is not generic as applied to  
4 goods.  
5

6 **COUNT THREE (OPPOSER HAS TWO COUNT THREE)**

7 **APPLICANT'S MARK IS GEOGRAPHICALLY DESCRIPTIVE**

8 59. Applicant denies herein by reference each and every allegation in Opposer's preceding  
9 paragraphs.

10 60. Admitted.

11 61. Admitted.

12 62. Denied. False and Misleading. There are many public off road areas using public land. Many  
13 organizations, businesses and clubs are involved in the OCOTILLO WELLS area—not  
14 merely Opposer.  
15

16 63. Denied. False and Misleading. Tierra Del Sol 4 wheel drive club merely sponsored the  
17 "Panel" of the sign along with numerous other sponsors. However, many have donated to the  
18 Tierra Del Sol 4 wheel drive club with promises that our/their donations would be used to  
19 keep public lands open. Our donations helped pay for this sign. Applicant's and others may  
20 choose to remain anonymous in advertising. Recognition is deserved by all that have donated  
21 not exclusively the Tierra Del Sol Four Wheel Drive Club.  
22

23 64. Denied. False and Misleading. Tierra Del Sol 4 Wheel Drive club merely sponsored the  
24 "Panel" of the sign along with numerous other sponsors. However, many have donated to the  
25 Tierra Del Sol 4 Wheel Drive Club with promises that our/their donations would be used to  
26

1 keep public lands open. Our donations helped pay for this sign. Applicant's and others may  
2 choose to remain anonymous in advertising. Recognition is deserved by all that have donated  
3 money and time, not exclusively the Tierra Del Sol Four Wheel Drive Club.

4  
5 65. Denied. False and Misleading. Tierra Del Sol 4 Wheel Drive Club only sponsored the "Panel"  
6 of the sign along with numerous other sponsors. However, Applicant and many others have  
7 made many generous donations towards State Parks and to the Opposer with hopes of and  
8 preserving public land as well. With our donations we have all helped pay for that sign.  
9 Applicant's and others may choose to remain anonymous in advertising. Recognition is  
10 deserved by all that have donated not exclusively the Tierra Del Sol Four Wheel Drive Club.

11  
12 66. Denied. False and Misleading. Many organizations, businesses, clubs and individuals have  
13 worked and still continue to work on preserving public lands. Including the Applicant.

14  
15 67. Denied. False and Misleading. Many have worked in preserving public land not just the  
16 Opposer. Recognition is deserved by all that have generously donated and still continue to  
17 work hard at preserving Public Land. Not exclusively the Tierra Del Sol Four Wheel Drive  
18 Club.

19  
20 68. Denied. False and Misleading. Applicant's use of mark OCOTILLO WELLS is not  
21 geographically descriptive. Its usage in on apparel. However, Opposer's use of the mark is  
22 geographically descriptive. Opposer's usage is exercised to describe the location an event.

23  
24 69. Denied. False and Misleading. Speculation. Applicant's Mark is unique. Applicant's mark is  
25 solid and stands alone. It is not polluted by any usage of additional words.

26  
27 70. Denied. False and Misleading. Applicant has used Mark in commerce for years. Whereas  
28 Opposer has only used the mark as a landmark.

1 71. Denied. False and Misleading. Applicant's mark is capable of trademark protection and has  
2 been used in commerce for years.

3 **COUNT FOUR**

4 **APPLICANT'S USE OF THE OCOTILLO WELLS MARK IS PURLEY ORNAMENTAL**

5 72. Defendant denies herein by reference each and every allegation in Opposer's preceding  
6 paragraphs.

7 73. Denied. False and Misleading. Applicant's mark does identify a source of goods. Applicant's  
8 mark is solid and stands alone. It is not polluted by any usage of additional words. Applicant's  
9 Mark is unique.

10 74. Denied. False and Misleading. Applicant's mark does indicate a unique source of goods.  
11 Applicant's mark is solid and stands alone. It is not polluted by any usage of additional words.  
12 Applicant's Mark is unique.

13 75. Denied. False and Misleading. Applicant's mark is unique and not merely ornamental.  
14 Applicant's mark is solid and stands alone. It is not polluted by any usage of additional words.  
15 OCOTILLO WELLS is not one of the last remaining areas of public land for off road use.  
16 Applicant's Mark is unique.

17 76. Denied. False and Misleading. Applicant's Mark is not merely decorative. Applicant's Mark  
18 is unique.

19 **COUNT FIVE**

20 **APPLICANT ENGAGED IN FRAUD ON THE TRADEMARK OFFICE**

21 77. Defendant denies herein by reference each and every allegation in Opposer's preceding  
22 paragraphs.

1 78. Denied. False and Misleading. Opposer's alleged use of my mark has only been for directions  
2 of location to where the Opposer's weekend event is held. Opposer does not, nor has ever  
3 used my mark OCOTILLO WELLS in any apparel sells.

4 79. Denied. False and Misleading. Applicant did not falsify any statement. Applicant has sole  
5 rights to the use of the mark.  
6

7 80. Denied. Applicant is the owner of the Mark.

8 81. Denied. False and Misleading. Applicant is the owner of the mark.

9 82. Denied. Applicant is well aware she has the sole usage of mark OCOTILLO WELLS in  
10 commerce.  
11

12 83. Denied. False and Misleading. Applicant is well aware she has the sole usage of mark  
13 OCOTILLO WELLS in commerce.

14 84. Denied. Denied. False and Misleading. All of Applicant's statements are true.

15 85. Denied. Denied. False and Misleading. All of Applicant's statements are true.

16 86. Denied. Denied. False and Misleading. Applicant's date of first use is correct. In fact  
17 Applicant used mark OCOTILLO WELLS for years prior to this date for personal use.  
18

19 87. Denied. False and Misleading. Applicant's date of first use is correct. In fact Applicant used  
20 mark OCOTILLO WELLS for years prior to this date for personal use.

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1 **CERTIFICATE OF SERVICE**

2 **Opposition No. 91214386**

3  
4 On February 14, 2014, **Brian Crow** served the following document(s):

5  
6 ANSWER TO NOTICE OF OPPOSITION

7 Addressed to:  
8 Gary L. Eastman  
9 Eastman & McCartney, LLP  
10 401 W. A Street, Suite 1785  
11 San Diego, CA 92101  
12 United States

13 Said documents were served by mail, I caused such envelope with postage thereon fully  
14 prepaid to be placed in the United States mail at El Cajon, California.

15  
16 Executed on February 14, 2014 from El Cajon, California.