

ESTTA Tracking number: **ESTTA654729**

Filing date: **02/09/2015**

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

Proceeding	91214386
Party	Defendant Lori Signs and Heather Signs
Correspondence Address	LORI SIGNS 15848 BROAD OAKS ROAD EL CAJON, CA 92021 UNITED STATES Lasigns@aol.com
Submission	Testimony For Defendant
Filer's Name	Lori Signs and Heather Signs
Filer's e-mail	Lasigns@aol.com
Signature	/LS/LORI SIGNS and /HS/ Heather Signs
Date	02/09/2015
Attachments	ocotillo wells defense to opposition PDF feb 9 2015.pdf(902003 bytes)

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8 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
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11 **TIERRA DEL SOL FOUR WHEEL**) **Application Serial No. 85899999**
12 **DRIVE CLUB,**) **Opposition No. 91214386**
13 **Opposer,**)
14 **v.**) **MARK: OCOTILLO WELLS**
15 **LORI SIGNS and HEATHER SIGNS,**)
16 **Applicants.**)
17)

18 **DEFENSE TO PLAINTIFF OPPOSITION**

19 The following is the Defense To Plaintiff Opposition. Lori Signs and Heather Signs
20 (“Applicants”), owner of Federal Trademark Application Serial No. **85899999** for the mark
21 OCOTILLO WELLS (hereinafter “Applicant’s Mark”), by the self-represented Applicant, to the
22 Notice of Opposition filed on January 8, 2014 by Tierra Del Sol Four Wheel Drive Club, (hereinafter
23 “Tierra Del Sol” or “Opposer”), and assigned ESTTA Tracking number ESTTA580784.
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26 Applicant sets forth the following in support of its position:
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- 1 1. Opposer, has no claim to the usage of the Mark OCOTILLO WELLS in commerce. Opposer
2 has no evidence or proof of usage of mark OCOTILLO WELLS in commerce
- 3 2. Plaintiff has provided no burden of proof to their claim of the usage of Mark OCOTILO
4 WELLS in Commerce.
- 5 3. The usage of the mark OCOTILLO WELLS does not appear on any of Opposer's apparel. In
6 fact no history of prior usage could be found on Opposer's clothing or any other third parties
7 usage. Opposer has not submitted any proof of usage.
- 8 4. Applicant spent extensive time researching Opposer's prior usage of the Mark prior to
9 applying for Trademark and found no prior usage.
- 10 5. Applicant has used the mark OCOTILLO WELLS in apparel sales and paraphernalia for
11 many years. In fact over 10 years history of usage.
- 12 6. Opposer was greatly aware of this usage of this mark even **prior** to Applicant's application.
- 13 7. Opposers usage of the word "OCOTILLO WELLS" was never used on apparel and has no
14 relation with applicant's mark OCOTILLO WELLS.
- 15 8. Applicant's mark is solid and stands alone. Applicant's Mark is unique.
- 16 9. No damage will be suffered by Opposer for Applicant's use of the mark OCOTILLO WELLS
17 in Apparel. Opposer has submitted no proof of marks usage.
- 18 10. Opposer has had no previous gain for the usage of OCOTILLO WELLS. Opposer has
19 submitted no proof of marks usage.
- 20 11. Opposer has no legal prior rights to the mark OCOTILLO WELLS.
- 21 12. No burden of proof of Opposers usage of mark has been satisfied Opposer has not used mark
22 OCOTILLO WELLS on T-shirts or other paraphernalia. In fact there is no history of
23 Opposer's usage in apparel. Opposer has submitted no proof of marks usage.
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1 13. Opposer has had no gain in alleged usage of mark OCOTILLO WELLS for T- shirts and
2 Paraphernalia. There is no prior usage Opposer's apparel does not bear mark OCOTILLO
3 WELLS. Opposer has submitted no proof of marks usage.

4 14. Applicant has used mark OCOTILLO WELLS in commerce for over 10 years.

5 15. Applicant has sole rights to OCOTILLO WELLS mark. Applicant's usage of mark was in
6 commerce for over 10 years.

7 16. . Applicant's mark OCOTILLO WELLS has achieved secondary meaning by usage in
8 commerce for over 10 years.

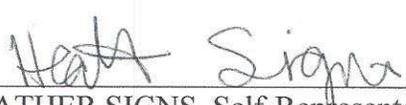
9 17. Opposer have no legal usage rights of Mark. Opposer has no evidence or proof of marks
10 usage in commerce.

11 **Wherefore,** Applicant prays that the Trademark Trial and Appeal Board deny the Opposition and
12 permit registration of Applicant's proposed mark in Application Serial No.8589999 in the United
13 States Patent and Trademark Office.

14 Dated this 9 day of February, 2015.

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