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

Proceeding	91217319
Party	Defendant BAROCCO ROMA s.r.l. Unipersonale
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Date	08/19/2014
Attachments	Answer.pdf(234110 bytes)

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

RAG & BONE HOLDINGS, LLC :
Opposer :
v. : Opposition No. 91217319
BAROCCO ROMA S.R.L. UNIPERSONALE :
Applicant :

ANSWER

Applicant Barocco Roma S.r.l. Unipersonale ("Applicant") hereby answers the notice of opposition filed herein as follows:

1. Applicant is without knowledge sufficient to form a belief as to the allegations in Paragraph No. 1 and, therefore, denies said allegations.
2. Applicant is without knowledge sufficient to form a belief as to the allegations in Paragraph No. 2 and, therefore, denies said allegations.
3. Applicant admits that a copy of Registration No. 4049025 is attached to the notice of opposition. Applicant is without knowledge sufficient to form a belief as to the remaining allegations in Paragraph No. 3 and, therefore, denies the said allegations.
4. Applicant is without sufficient knowledge to form a belief as to the allegations in Paragraph No. 4 and, therefore, denies said allegations.
5. Applicant denies the allegations in Paragraph No. 5.
6. Applicant is without sufficient knowledge to form a belief as to the allegations in Paragraph No. 6 and, therefore, denies said allegations.
7. Applicant is without sufficient knowledge to form a belief as to the allegations in Paragraph No. 7 and, therefore, denies said allegations.

8. Applicant is without sufficient knowledge to form a belief as to the allegations in Paragraph No. 8 and, therefore, denies said allegations.

9. Applicant is without sufficient knowledge to form a belief as to the allegations in Paragraph No. 9 and, therefore, denies said allegations.

10. Applicant is without sufficient knowledge to form a belief as to the allegations in Paragraph No. 10 and, therefore, denies said allegations.

11. Applicant denies the allegations contained in Paragraph No. 11

12. Applicant admits that the mark it seeks to register incorporates the letters "RB."
Applicant denies the remaining allegations contained in Paragraph No. 12.

13. Applicant denies the allegations contained in Paragraph No. 13.

14. Applicant denies the allegations in Paragraph No. 14.

15. Applicant admits that it filed its application on July 31, 2013 and that the application speaks for itself. Applicant otherwise denies the allegations contained in Paragraph No. 15.

16. Applicant denies the allegations contained in Paragraph No. 16.

17. Applicant admits that its application was filed unsigned. Applicant denies all other allegations in Paragraph No. 17, including the implied allegation that Applicant had an obligation to file its declaration by July 31, 2013.

18. Applicant denies that it failed to meet the minimum requirements for filing its application.

19. Applicant denies the allegations contained in Paragraph No. 19.

20. Applicant admits that the USPTO Examiner allowed publication of its mark. Applicant denies the remaining allegations in Paragraph 20.

21. To the extent an answer is required, Applicant incorporates herein its responses to Paragraphs 1 through 20.

22. Applicant denies the allegations contained in Paragraph 22.

23. Applicant admits that its application contains a description of goods, which speaks for itself. Applicant denies the remaining allegations contained in Paragraph No. 23.

24. Applicant is without sufficient knowledge to form a belief as to what if any goods are sold by Opposer and, therefore, denies the allegations contained in Paragraph No. 24.

25. Applicant denies the allegations contained in Paragraph No. 25.

26. To the extent an answer is required, Applicant incorporates herein its responses to Paragraphs 1 through 25.

27. Applicant denies the allegations contained in Paragraph No. 27.

28. Applicant is without sufficient knowledge to form a belief as to Opposer's trade channels and therefore denies the allegations contained in Paragraph No. 28.

29. Applicant is without sufficient knowledge to form a belief as to the type of media allegedly used by Opposer and, therefore, denies the allegations contained in Paragraph No. 29.

30. Applicant is without sufficient knowledge to form a belief as to the Opposer's type of customers and, therefore, denies the allegations contained in Paragraph No. 30.

31. Applicant denies the allegations contained in Paragraph No. 31.

32. To the extent an answer is required, Applicant incorporates herein its responses to Paragraphs 1 through 31.

33. Applicant denies the allegations contained in Paragraph No. 33.

34. Applicant denies the allegations contained in Paragraph No. 34.

35. Applicant denies the allegations contained in Paragraph No. 35.

36. Applicant denies the allegations contained in Paragraph No. 36.

37. Applicant denies the allegations contained in Paragraph No. 37.

38. Applicant denies the allegations contained in Paragraph No. 38.

39. To the extent an answer is required, Applicant incorporates herein its responses to Paragraphs 1 through 38.

40. Applicant is without sufficient knowledge to form a belief as to the allegations contained in Paragraph No. 40 and, therefore, denies said allegations.

41. Applicant is without sufficient knowledge to form a belief as to the allegations contained in Paragraph No. 41 and, therefore, denies said allegations.

42. Applicant denies the allegations contained in Paragraph No. 42.

43. Applicant denies the allegations contained in Paragraph No. 43.

AFFIRMATIVE DEFENSES

1. Opposer has failed to state a claim upon which relief may be granted.
2. Opposer will not be damaged by registration of Applicant's Mark and, therefore, Opposer lacks standing to file the notice of opposition.
3. Opposer's claims are barred by the fact that numerous third parties have obtained registrations for marks containing the letters RB and, to the extent Opposer ever had any rights in those letters, they have been so diluted as to preclude Opposer's mark from functioning as an indicator of source, except in conjunction with the mark RAG & BONE.
4. Opposer's claims are barred by the doctrine of acquiescence in that Opposer has acquiesced in the use and registration of marks containing the letters RB by Applicant and numerous third parties and, to the extent Opposer ever had any

rights, those rights have been abandoned by a course of conduct that caused the mark to lose its distinctiveness as an indicator of origin.

5. Opposer's claims are barred by the doctrine of unclean hands in that Opposer has engaged in inequitable conduct directly relating to the subject matter of this litigation, in that the opposition was filed in bad faith, to hinder fair competition and with knowledge that Opposer has no valid basis for precluding Applicant from registering its mark.
6. Opposer's claims are barred by the doctrine of equitable estoppel.
7. Opposer's claims are barred by the doctrine of waiver.

In view of the foregoing, Applicant requests that this notice of opposition be dismissed, and registration granted to its mark.

BAROCCO ROMA S.R.L. UNIPERSONALE

By



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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing is being serviced upon Opposer's counsel Ted Sabety of Hand Beldachin & Amburgy LLP at 8 West 40th Street, 12th Floor, New York, New York 10017, by first class mail, postage prepaid, on August 19, 2014.



A handwritten signature in cursive script, appearing to read "Michael A. Sabety", is written over a horizontal line.