

ESTTA Tracking number: **ESTTA626186**

Filing date: **09/09/2014**

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

Proceeding	91217706
Party	Defendant Summit Entertainment, LLC
Correspondence Address	JILL M PIETRINI SHEPPARD MULLIN RICHTER & HAMPTON, LLP 1901 AVENUE OF THE STARS , SUITE 1600 LOS ANGELES, CA 90067-6055 UNITED STATES
Submission	Answer
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Signature	/Jill M. Pietrini/
Date	09/09/2014
Attachments	Answer to Consolidated Notice of Opposition.pdf(801984 bytes)

3. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 3 of the Opposition, and therefore denies each and every such allegation.

4. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 4 of the Opposition, and therefore denies each and every such allegation.

5. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 5 of the Opposition, and therefore denies each and every such allegation.

6. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 6 of the Opposition, and therefore denies each and every such allegation.

7. Applicant admits the allegations contained in paragraph 7 of the Opposition, but denies that its mark is known or referred to as the “Summit Tree Mark.”

8. Applicant admits the allegations contained in paragraph 8 of the Opposition, but denies that its mark is known or referred to as the “Summit Tree Mark.”

9. Applicant admits the allegations contained in paragraph 9 of the Opposition, but denies that its mark is known or referred to as the “Summit Tree Mark.”

10. Applicant denies the allegations contained in paragraph 10.

11. Applicant denies the allegations contained in paragraph 11.

12. Applicant denies the allegations contained in paragraph 12.

13. Applicant denies each and every allegation contained in paragraph 13.

14. Applicant denies each and every allegation contained in paragraph 14.

15. Applicant denies each and every allegation contained in paragraph 15.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Failure To State A Claim

16. Opposer has failed to allege grounds sufficient to sustain the Opposition.

Second Affirmative Defense – Estoppel

17. The Opposition is barred by estoppel.

Third Affirmative Defense – Acquiescence

18. The Opposition is barred by Opposer’s acquiescence.

Fourth Affirmative Defense – Waiver

19. The Opposition is barred by the doctrine of waiver.

Fifth Affirmative Defense – Laches

20. The Opposition is barred by the doctrine of laches.

Sixth Affirmative Defense – Third Party Use

21. Opposer’s rights, if any, to the trademarks similar to the Summit Amity Logo are weakened by the third party use and/or registration including but not limited to:

<u>Mark</u>	<u>Owner</u>	<u>Register</u>	<u>Class</u>	<u>Reg. No.</u> <u>Serial No.</u>
	Pebble Beach Company 2700 17-Mile Drive Pebble Beach, CA 93953	Principal	3, 9, 24, 30, 35, 41 & 42	2,774,463 76/192,388
	Pebble Beach Company 2700 17-Mile Drive Pebble Beach, CA 93953	Principal	6, 14, 16, 18, 20, 21, 25, 26, 28	2,701,763 76/191,507
	Pebble Beach Company 2700 17-Mile Drive Pebble Beach, CA 93953	Principal	41	3,522,197 77/326,252
	Crabtree & Evelyn, Ltd. 102 Peake Brook Road Woodstock, CT 06281	Principal	3	1,721,311 74/235,905
	HT2, Inc. Oregon Corporation P.O. Box 338 Carlton, OR 97111	Principal	3, 5	3,990,378 77/433,072

<u>Mark</u>	<u>Owner</u>	<u>Register</u>	<u>Class</u>	<u>Reg. No. Serial No.</u>
	Creative Learning 4 Kids, Inc. 6705 Patrick Plano, TX 75093	Principal	41	3,497,599 77/015,037
	Torrey Pines Scientific, Inc. 2713 Loker Ave. West Carlsbad, CA 92010	Principal	9	4,583,602 86/142,482
	Shaohannah's Hope, Inc. 230 Franklin Road, Suite 12Q Franklin, TN 37064	Principal	16 & 45	4,498,108 86/043,635
	Shaohannah's Hope, Inc. 230 Franklin Road, Suite 12Q Franklin, TN 37064	Principal	25	4,501,236 86/023,067
	Sagaracorp LLC 935 Codadad Street Opa Locka, FL 33054	Principal	42	4,520,996 86/040,751
	Haas Outdoors, Inc. 200 E. Main Street West Point, MS 39773	Principal	28	4,481,207 86/011,016
	National Genealogical Society Columbia Pike, Suite 300 Arlington, VA 22204	Principal	9, 16, 35, 41, & 45	4,583,188 86/090,360
	Lenzing Aktiengesellschaft Werkstrasse 2 Lenzing AUSTRIA A-4860	Principal	3, 5, 17 & 24	4,570,633 85/747,893

<u>Mark</u>	<u>Owner</u>	<u>Register</u>	<u>Class</u>	<u>Reg. No.</u> <u>Serial No.</u>
	Where Food Comes From, Inc. 221 Wilcox Street, Suite A Castle Rock, CO 80104	Principal	9, 35 & 42	4,570,565 85/454,537
	LSCB Designs 4025 Rivers Run Drive Lewis Center, OH 43035	Principal	25	4,093,063 85/180,759
	The Pennsylvania Horticultural Society 100 North 20th Street Philadelphia, PA 19103	Principal	35, 41 & 44	4,487,375 85/862,414
	Synergy Clothing, Inc. 343 Soquel Ave #88 Santa Cruz, CA 95062	Principal	25	4,535,753 85/859,703
	Greenbrier International, Inc. 500 Volvo Parkway Chesapeake, VA 23320	Principal	16	4,364,857 85/791,978
	Circle Tree, LLC 1010 E Washington St. Orlando, FL 32801	Principal	42	4,361,380 85/777,761
	SMAO, LLC 3054 Independence Drive Homewood, AL 35209	Principal	25	4,398,965 85/765,700
	Township of Livingston, NJ 357 South Livingston Ave. Livingston, NJ 07039-3994	Principal	41	4,409,532 85/642,245

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	Stewart & Carroll Marketing Group, LLC 43485 Whetstone Court Ashburn, VA 20147	Principal	9, 16 & 41	4,506,124 85/639,216
	Brummell, Elodie A. 14147 S. Longview Ln. Plainfield, IL 60544	Principal	16	4,401,114 85/615,649
	Brummell, Elodie A. 14147 S. Longview Ln. Plainfield, IL 60544	Principal	41	4,401,113 85/615,643
	Shepherd's Centers of America One West Armour Blvd, Suite 201 Kansas City, MO 64111	Principal	41	2,806,680 78/204,485
	Inner Domain LLC 5021 Sentinel Dr. Bethesda, MD 20816	Principal	41	4,142,285 85/426,242
	Orange County Department Of Education 2910 Redhill Avenue, Suite 200 Costa Mesa, CA 92626	Principal	41	4,248,505 85/413,519
	Wholeren, LLC 1706 Saw Grass Court Pittsburgh, PA 17108	Principal	41	4,174,102 85/337,588
	Sturge-Weber Foundation 1240 Sussex Turnpike, Suite B Randolph, NJ 07869	Principal	16, 35, 36, 41 & 44	4,087,053 85/323,654

<u>Mark</u>	<u>Owner</u>	<u>Register</u>	<u>Class</u>	<u>Reg. No.</u> <u>Serial No.</u>
	CampusTours Inc. 110 Jacques Road Auburn, ME 04210	Principal	9, 41 & 42	3,993,178 85/181,210
	Extraco Corporation 1700 N. Valley Mills Dr. Waco, TX 76710	Principal	41	3,916,738 85/064,015
	Wyetech, LLC 1710 Smugglers Run Annapolis, MD 21401	Principal	42	3,721,327 77/690,091
	Demos Medical Publishing, LLC 386 Park Avenue South, Suite 301 New York, NY 10016	Principal	9, 16 & 41	4,027,398 77/650,510
	International Bullion & Metal Brokers (USA) Inc. 14051 NW 14th Street Sunrise, FL 33323	Principal	14	3,735,084 77/613,153
	Mashantucket Pequot Tribe, 2 Matts Path Mashantucket, CT 06339	Principal	42	1,940,130 74/632,589
	Mashantucket Pequot Tribe, 2 Matts Path Mashantucket, CT 06339	Principal	25	2,046,975 74/622,429
	Mashantucket Pequot Tribe, 2 Matts Path Mashantucket, CT 06339	Principal	16	1,999,173 74/621,904

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	Mashantucket Pequot Tribe, 2 Matts Path Mashantucket, CT 06339	Principal	41	1,933,317 74/621,902
	The Devereux Foundation 444 Devereux Drive Villanova, PA 19085	Principal	41	3,477,235 77/033,907
	Historic Kenwood Neighborhood Association P.O. Box 15134 St Petersburg, FL 33733-5134	Principal	35 & 41	3,284,210 76/665,210
	Gydid-Ima-Tree Productions, Inc. 4916 NE St. Johns Rd Vancouver, WA 98661	Principal	9 & 35	3,281,741 77/032,618
	Karen Clark Ford 3302 Alydar Court Mitchellville, MD 20721	Principal	41	3,277,540 78/743,079
	From Generation to Generation LLC 59 New Taunton Norton, MA 02766	Principal	16	4,577,323 85/982,013
	The Havila, Inc. DBA Havila Garden 650 South Hill Street, Suite 719 Los Angeles, CA 90014	Principal	14	4,394,846 85/670,722
	Charles Andrews DBA MASK 1427 E. 49 St. Brooklyn, NY 11234	Principal	25	4,398,536 85/568,487

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	Cortefiel, S.A. Avda del Llano Castellano Madrid, Spain 51 E-28034	Principal	25	3,369,624 79/031,916
	Kierszenbaum, Martin I. c/o Ziffren Brittenham LLP 1801 Century Park West Los Angeles, CA 90067-6406	Principal	9	3,725,559 77/768,751
	88 Rodeo Holdings Inc. 100 North Wilkes-Barre Boulevard Wilkes-Barre, PA 18702	Principal	14	3,648,367 77/390,925

Applicant will identify other similar third party marks in discovery.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed with prejudice, and that the prayer for relief contained therein be denied.

Respectfully submitted,

Dated: September 9, 2014

/s/Jill M. Pietrini
 Jill M. Pietrini
 Benjamin Aigboboh
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, Attn: Trademark Trial and Appeals Board P.O. Box 1451, Alexandria, VA 22313-1451, on this 9th day of September, 2014.

/s/LaTrina A. Martin

LaTrina A. Martin

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **ANSWER TO CONSOLIDATED NOTICE OF OPPOSITION** is being deposited as first class mail, postage prepaid, in an envelope addressed to:

Larry C Jones
Alston & Bird LLP
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

on this 9th day of September, 2014.

/s/LaTrina A. Martin

LaTrina A. Martin

SMRH:432213067.1