

ESTTA Tracking number: **ESTTA634903**

Filing date: **10/24/2014**

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

Proceeding	91218377
Party	Defendant Tomorrowland Co., Ltd.
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Date	10/24/2014
Attachments	Disney.pdf(171339 bytes)

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

In the Matter of Application Serial Nos. 79/140,899 and 79/144,969
For the Marks: LAND OF TOMORROW and TOMORROWLAND
Filed on August 20, 2013 and December 26, 2013
Published in the *Official Gazette* on May 20, 2014

DISNEY ENTERPRISES, INC., Opposer, v. TOMORROWLAND CO., LTD., Applicant.
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Opposition No.: 91218377

ANSWER

Applicant Tomorrowland Co., Ltd. (“Applicant”), by its undersigned attorneys Cowan, DeBaets, Abrahams & Sheppard LLP, for its Answer to the Notice of Opposition filed by Disney Enterprises, Inc. (“Opposer”), answers as follows:

1. Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 1 of Opposer’s Notice of Opposition and therefore denies the same.
2. Applicant admits that Opposer offers or operates amusement park services, some of which include a section called “Tomorrowland.” Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 2 of Opposer’s Notice of Opposition and therefore denies the same.
3. Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 3 of Opposer’s Notice of Opposition and therefore denies the same.

4. Applicant admits that certain portions of its theme parks in California, Florida, Tokyo and Paris are named “Tomorrowland” and that some or all may include a ride called “Space Mountain.” Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 4 of Opposer’s Notice of Opposition and therefore denies the same.

5. Applicant denies the allegations set forth in paragraph 5 of Opposer’s Notice of Opposition to the extent that they can be read to suggest that Opposer has any registered trademark rights in “Tomorrowland” for retail store services. Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 5 of Opposer’s Notice of Opposition and therefore denies the same.

6. Applicant admits that the images shown in paragraph 6 of Opposer’s Notice of Opposition purport to show the word “Tomorrowland” on tee-shirts and respectfully refers the Board to the images for a more complete and accurate depiction of their contents. Applicant denies the allegations in paragraph 6 of Opposer’s Notice of Opposition to the extent that they can be read to suggest that Opposer has any registered trademark rights in “Tomorrowland” for clothing products, or that such products as depicted in paragraph 6 show trademark use of the term TOMORROWLAND as opposed to ornamental or decorative use. Applicant further denies the allegations in paragraph 6 of Opposer’s Notice of Opposition to the extent that they purport to claim that Opposer sells clothing products that are not also branded with the name “Disney” or are not sold in locations other than Opposer’s theme parks and Disney-branded stores. Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 6 of Opposer’s Notice of Opposition and therefore denies the same.

7. Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 7 of Opposer's Notice of Opposition and therefore denies the same.

8. Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 8 of Opposer's Notice of Opposition and therefore denies the same.

9. Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 9 of Opposer's Notice of Opposition and therefore denies the same.

10. Applicant admits that Exhibit A purports to be a printout from the USPTO TSDR database of U.S. Reg. No. 895,722 for "providing participation type entertainment in amusement and educational park" services in Class 41, and respectfully refers the Board to the referenced Exhibit A for a complete and accurate statement of its contents. Applicant denies that any other goods or services (including those set forth in paragraphs 2-10 that are not within the referenced Exhibit A) are registered.

11. Applicant denies that Opposer has filed any U.S. applications for MILES OF TOMORROWLAND but admits that a list of applications for MILES FROM TOMORROWLAND appears to be set forth in paragraph 11 of Opposer's Notice of Opposition, and Applicant respectfully refers the Board to the applications themselves for a more complete and accurate statement of their contents.

12. Applicant admits that the U.S. Patent and Trademark Office issued a priority action based on three applications that include Applicant's applications at issue in this

proceeding. Applicant refers the Board to the referenced priority action for a more complete and accurate statement of its contents.

13. Applicant admits the allegations set forth in paragraph 13 of Opposer's Notice of Opposition.

14. Applicant admits the allegations set forth in paragraph 14 of Opposer's Notice of Opposition but refers the Board to the referenced application record for a more complete and accurate statement of its contents.

15. Applicant admits the allegations set forth in paragraph 15 of Opposer's Notice of Opposition but refers the Board to the referenced application record for a more complete and accurate statement of its contents.

16. Applicant admits the allegations set forth in paragraph 16 of Opposer's Notice of Opposition.

17. Applicant repeats and realleges every response to the above allegations as if fully set forth herein.

18. Applicant states that the allegations set forth in paragraph 18 of Opposer's Notice of Opposition set forth conclusions of law as to which no response is required, but to the extent any response is required, Applicant denies the allegations set forth in paragraph 18 of Opposer's Notice of Opposition to the extent that they can be read to suggest priority in all classes or as to all services. Applicant respectfully refers the Board to the cited registration record for the contents contained therein, and denies knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 18 of Opposer's Notice of Opposition and therefore denies the same.

19. Applicant states that the allegations set forth in paragraph 19 of Opposer's Notice of Opposition set forth conclusions of law as to which no response is required, but to the extent any response is required, Applicant denies the allegations set forth in paragraph 19 of Opposer's Notice of Opposition.

20. Applicant states that the allegations set forth in paragraph 20 of Opposer's Notice of Opposition set forth conclusions of law as to which no response is required, but to the extent any response is required, Applicant denies the allegations set forth in paragraph 20 of Opposer's Notice of Opposition except admits that the words "Tomorrowland" and "Tomorrowland" appear and sound the same when written and pronounced in English.

21. Applicant states that the allegations set forth in paragraph 21 of Opposer's Notice of Opposition set forth conclusions of law as to which no response is required, but to the extent any response is required, Applicant denies the allegations set forth in paragraph 21 of Opposer's Notice of Opposition.

22. Applicant denies the allegations set forth in paragraph 22 of Opposer's Notice of Opposition.

23. Applicant denies the allegations set forth in paragraph 23 of Opposer's Notice of Opposition.

APPLICANT'S AFFIRMATIVE DEFENSES

Applicant sets forth the following allegations as affirmative defenses without admitting that it bears the burden of persuasion or presentation of evidence on each or any of these matters, and without waiving the right to assert by motion or amendment, and subsequently rely upon, other defenses that become available or appear during the course of this proceeding.

FIRST DEFENSE

1. Opposer has permitted Applicant's TOMORROWLAND and/or LAND OF TOMORROW marks to be used and registered in dozens of countries worldwide – including in countries in which Opposer maintains theme park attractions named “Tomorrowland” and in jurisdictions in which Opposer and Applicant both maintain trademark registrations for TOMORROWLAND and/or LAND OF TOMORROW – for at least several years and up to 35 years since Applicant's first use of the mark, without objection from Opposer. Accordingly, Opposer's claims are barred in whole or in part by the doctrines of waiver, estoppel, acquiescence, or laches.

Dated: New York, New York
October 24, 2014

COWAN, DeBAETS, ABRAHAMS &
SHEPPARD LLP

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of October, 2014, I caused to be served a true and correct copy of the foregoing Applicant's Answer to Notice of Opposition via first class mail, postage prepaid, with a courtesy copy via electronic mail, on the following:

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