

ESTTA Tracking number: **ESTTA646150**

Filing date: **12/19/2014**

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

Proceeding	91218789
Party	Defendant Ella Rose LLC
Correspondence Address	BENITA COLLIER JORDAN IP LAW LLC SUITE 300 1701 PENNSYLVANIA AVE NW WASHINGTON, DC 20006-5805 UNITED STATES trademarks@jordaniplaw.com, bcollier@jordaniplaw.com
Submission	Answer
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Signature	/Benita P. Collier/
Date	12/19/2014
Attachments	FINAL Answer to Notice of Opposition.pdf(111323 bytes)

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

_____	:	Opposition No. 91218789
Mo Industries, LLC	:	
	:	
Opposer,	:	Mark: ELLA ROSE
	:	
v.	:	Published: June 17, 2014
	:	
Ella Rose, LLC	:	Classes Being Opposed: 18 & 25
	:	
Applicant,	:	
	:	
_____	:	

ANSWER TO NOTICE OF OPPOSITION

Applicant, Ella Rose, LLC (“Applicant”) for its Answer to the Notice of Opposition in Opposition No. 91218789 responds to the numbered paragraphs of the Notice of Opposition as follows:

1. Applicant admits it is the owner of U.S. Trademark Serial No. 85/764,110 for the mark ELLA ROSE, filed with the U.S. Trademark Office on October 25, 2012. The application speaks for itself.
2. Applicant denies the allegations set forth in Paragraph 2. Applicant is without knowledge or information sufficient to form a belief as to whether Opposer is the current correct and proper owner of the claimed registrations and applications, and whether each registration is currently valid and subsisting; and therefore Applicant is without knowledge and information sufficient to form a belief as to priority.
3. Applicant is without sufficient information to form a belief as to the allegation set forth in Paragraph 3 and therefore denies same.
4. Admitted.

5. Applicant denies the allegations set forth in Paragraph 5.
6. Applicant denies the allegations set forth in Paragraph 6.
7. Applicant denies the allegations set forth in Paragraph 7.
8. Applicant is without sufficient information to form a belief as to the allegations set forth in Paragraph 8 and therefore denies same. Applicant is specifically unaware of Opposer's actual first date of use of the ELLA MOSS Mark and denies same.
9. Applicant denies the allegations set forth in Paragraph 9.
10. Applicant denies the allegations set forth in Paragraph 10.

Applicant denies any allegation contained in the Notice of Opposition which has not been expressly admitted herein, and specifically denies that Opposer is entitled to the relief requested.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety with prejudice and that Opposer's prayer for relief be denied.

AFFIRMATIVE DEFENSES

1. Opposer has failed to state a claim upon which relief can be granted.
2. On information and belief, numerous third parties have used and/or registered marks incorporating ELLA.
3. Applicant's mark and Opposer's mark are distinctly different in appearance.
4. Applicant's mark and Opposer's mark are distinctly different in sound.
5. Applicant's mark and Opposer's mark engender distinctly different commercial impressions.
6. Applicant's mark and Opposer's mark are distinctly different in spelling.
7. The ROSE in Applicant's mark and MOSS in Opposer's mark are distinctly different in appearance and sound, and engender distinctly different commercial impressions.
8. The word ROSE in Applicant's mark and the word MOSS in Opposer's mark have different meanings.
9. Applicant will rely on any and all additional affirmative defenses that may be developed through the discovery and/or testimony stages of this proceeding.

ELLA ROSE, LLC
Applicant

Dated: December 19, 2014

By: 
Benita P. Collier, Esq.
JORDAN IP LAW LLC

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Attorney for Applicant

CERTIFICATE OF FILING

I hereby certify this Answer to Notice of Opposition was electronically filed with the Trademark Trial and Appeal Board on this 19th day of December, 2015.



(Signature)

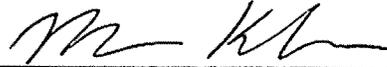


(Date of Signature)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Answer to the Notice of Opposition was served upon Opposer's counsel of record, via First Class Mail, Postage Prepaid, on this the 19th day of December, 2014 addressed to:

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12/19/14