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

Proceeding	91219570
Party	Defendant Uceda Institute, Inc.
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Date	09/11/2015
Attachments	Uceda Institute Answer To Notice Of Opposition- formatted - RR.pdf(52577 bytes)

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

Juan J. Uceda, Ines Uceda, Charo Uceda,
Doris Uceda, John Paul Uceda, and Mario Uceda,

Opposers,

Opposition No. 91219570

vs.

UCEDA INSTITUTE, INC.

Applicant.

Application Serial Number: 86233150
Mark: UCEDA INSTITUTE
Filing Date: March 26, 2015

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant Uceda Institute, Inc. ("Applicant") by its counsel, Law Offices of Joseph C. Messina, hereby answers the Notice of Opposition as follows:

1. Applicant denies the allegations in paragraph 1 except admits that Carlos A. Uceda, and Opposers Juan J. Uceda, Charo Uceda, and Doris Uceda together as equal partners started an educational business, focused on English as a second language using the name UCEDA ENGLISH INSTITUTE. By 1989 Carlos A. Uceda was personally managing the Paterson, NJ branch and in the next few years, Carlos A. Uceda also managed branches in Passaic, NJ and Manhattan. Applicant asserts no answer to the legal conclusion that there has been no abandonment by Opposers. Applicant respectfully refers all questions of law to the Board.

2. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 2 except admits that Charo Uceda is the daughter of Juan J. Uceda, and that several books were written by Charo Uceda, and in addition to Charo Uceda's publications, Carlos A. Uceda published multiple textbooks branded under the name "Uceda". Applicant asserts no answer to the legal conclusion that there has been no abandonment by Opposers. Applicant respectfully refers all questions of law to the Board.

3. Applicant denies the allegations in paragraph 3 except admits that Doris Uceda is the daughter of Juan J. Uceda. Applicant asserts no answer to the legal conclusion that there has been no abandonment by Opposers. Applicant respectfully refers all questions of law to the Board.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 4, except admits that Ines Uceda is the former wife of Juan J. Uceda. Applicant asserts no answer to the legal conclusion that there has been no abandonment by Opposers. Applicant respectfully refers all questions of law to the Board.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 5, except admits that John Paul Uceda is a son of Doris Uceda. Applicant asserts no answer to the legal conclusion that there has been no abandonment by Opposers. Applicant respectfully refers all questions of law to the Board.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 6, except admits that Mario Uceda is a son of Doris Uceda. Applicant asserts no answer to the legal conclusion that there has been no abandonment by Opposers. Applicant respectfully refers all questions of law to the Board.

7. Applicant denies the allegations in paragraph 7 except admits that Carlos A. Uceda is the son of Juan J. Uceda and the owner of the Applicant, and admits that Applicant commenced use of the Mark UCEDA INSTITUTE in commerce in April 1993, but had been using the name "Uceda" for educational services focusing on English as a second language since his partnership with Opposers, Juan J. Uceda, Charo Uceda, and Doris Uceda. In 1993, the partnership dissolved and Carlos A. Uceda received a share of the partnership, specifically exclusive ownership of branches located in Paterson and Passaic, New Jersey.

8. Applicant denies the allegations in paragraph 8. Once the partnership dissolved in 1993 and for more than 20 years thereafter, Opposers did not express any belief or concern that damage or confusion would result from Applicant's use of the Mark.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 9.

10. Applicant denies the allegation that Opposers have priority of use of the Mark and lacks knowledge or information sufficient to form a belief as to the truth of the other allegations in paragraph 10. Applicant asserts no answer to the

allegations that state legal conclusions and in the alternative respectfully refers all questions of law to the Board.

11. Applicant denies the allegations in paragraph 11 and the subsequent prayer for relief and respectfully refers all questions of law to the Board.

AFFIRMATIVE DEFENSES

Applicant asserts that the following affirmative defenses bar Opposers' requested relief in its Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE

Opposers' claims fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Opposers' claims are barred by one or more of the following equitable defenses, laches, acquiescence, estoppel, waiver, and/or unclean hands.

THIRD AFFIRMATIVE DEFENSE

Applicant is hereby providing notice that it may rely on other defenses that may be revealed during discovery or become available at a later date and therefore reserves its right to amend the Answer to include additional defenses.

FOURTH AFFIRMATIVE DEFENSE

Applicant claims priority over the Opposers through tacking.

Wherefore, Applicant respectfully requests that the Board dismiss this Opposition pending under No. 91219570 with prejudice.

Dated: September 11, 2015

Respectfully Submitted,

/s/ Nikki Siesel

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CERTIFICATE OF SERVICE

It is hereby certified that on September 11, 2015, a true copy of the foregoing **ANSWER TO THE NOTICE OF OPPOSITION** was served upon the following counsel of record for the Opposers via email. The express consent for service via email was provided by Opposers' counsel on December 3, 2014.

Arthur Lehman, Esq.

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/s/ Nikki Siesel

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Dated September 11, 2015