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

| | |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| Proceeding | 91223243 |
| Party | Defendant Bella Collina Events LLC |
| Correspondence Address | DAVID W. SAR Brooks Pierce McLendon Humphrey & Leonar PO Box 26000 Greensboro, NC 27420-6000 UNITED STATES dsar@brookspierce.com |
| Submission | Answer |
| Filer's Name | Kimberly M. Marston |
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| Signature | /Kimberly M. Marston/ |
| Date | 10/20/2015 |
| Attachments | TTAB_-_Answer.pdf(216251 bytes) |

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

| | |
|---------------------------------|-------------------------|
| DCS INVESTMENT HOLDINGS, LLC,) | Opposition No. 91223243 |
|) | Serial No. 86362378 |
| <i>Opposer,</i>) | |
|) | |
| v.) | |
|) | <u>ANSWER</u> |
| BELLA COLLINA EVENTS LLC,) | |
|) | |
| <i>Applicant.</i>) | |
|) | |

Applicant Bella Collina Events, LLC (“BCE”), by and through undersigned counsel, pursuant to Trademark Rule 2.106(b), hereby answers and responds to the Notice of Opposition (“Notice”) of DCS Investment Holdings, LLC (“Opposer”).

Pending Motion to Suspend

On September 3, 2015, BCE filed a Motion to Suspend Proceedings Pending Outcome of Pending Civil Action. The Motion has been briefed both parties, and remains pending. As set forth in the prior filings, this Opposition should be suspended pending the disposition of the pending federal court lawsuit currently styled *Bella Collina Events, LLC v. DCS Real Estate Investments, LLC*, 1:15-cv-7 and pending in the United States District Court for the Middle District of North Carolina.

Answer to Allegations of Notice of Opposition

Responding to the unnumbered initial paragraph of the Notice, Applicant states that Applicant lacks information or knowledge sufficient to form a belief as to the allegations concerning Opposer’s belief and therefore denies the same. The allegations of the unnumbered initial paragraph of the Notice are denied.

Responding to the numbered paragraphs of the Notice, Applicant states as follows:

1. Admitted.
2. Applicant denies the allegations of paragraph 2 of the Notice.
3. Applicant denies the allegations of paragraph 3 of the Notice.
4. Applicant admits that Opposer is seeking registration of ‘BELLA COLLINA’ under U.S. Serial Number 86431330 and that such application is currently suspended. It is further admitted Opposer is seeking registration of a composite logo including the lettering ‘BC BELLA COLLINA’ under U.S. Serial Number 86431338 and that such application is currently suspended. Such applications are the best evidence of their own contents, including their respective identifications of services. It is expressly denied that Opposer “owns other BELLA COLLINA marks in other international classes, including U.S. Registration Number 2936715.” Except as expressly admitted, the remaining allegations of Paragraph 4 are denied.

5. Applicant denies the allegations of paragraph 5 of the Notice.
6. Applicant denies the allegations of paragraph 6 of the Notice.
7. Applicant denies the allegations of paragraph 7 of the Notice.
8. BCE is without information or knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 8 and therefore denies them.

9. It is expressly denied there is a huge, nationwide demand for wedding events, services, and planning bearing Opposer’s Marks. BCE is without information or knowledge sufficient to form a belief as to the truth of the remaining allegations of Paragraph 9 and therefore denies them.

10. Applicant denies the allegations of paragraph 10 of the Notice.

11. It is admitted that counsel for a different entity contacted counsel for BCE and that such communication speaks for itself and is the best evidence of its contents. Except as expressly admitted, the allegations of Paragraph 11 are denied.

Count I – Likelihood of Confusion

12. BCE responds to Opposer's incorporated allegations contained in Paragraph 12 of by realleging and incorporating by reference its responses to Paragraphs 1 through 11 above as if fully set forth herein.

13. Applicant denies the allegations of paragraph 13 of the Notice.

14. Applicant denies the allegations of paragraph 14 of the Notice.

15. Applicant denies the allegations of paragraph 15 of the Notice.

16. Applicant denies the allegations of paragraph 16 of the Notice.

17. Applicant denies the allegations of paragraph 17 of the Notice.

Count II - Dilution

18. BCE responds to Opposer's incorporated allegations contained in Paragraph 18 of by realleging and incorporating by reference its responses to Paragraphs 1 through 17 above as if fully set forth herein.

19. Applicant denies the allegations of paragraph 19 of the Notice.

20. Applicant denies the allegations of paragraph 20 of the Notice.

21. Applicant denies the allegations of paragraph 21 of the Notice.

22. Applicant denies the allegations of paragraph 22 of the Notice.

23. Applicant denies the allegations of paragraph 23 of the Notice.

Count III - Fraud

24. BCE responds to Opposer's incorporated allegations contained in Paragraph 24 of by realleging and incorporating by reference its responses to Paragraphs 1 through 23 above as if fully set forth herein.

25. Applicant denies the allegations of paragraph 25 of the Notice.

26. Applicant denies the allegations of paragraph 26 of the Notice.

27. Applicant denies the allegations of paragraph 27 of the Notice.

28. Applicant denies the allegations of paragraph 28 of the Notice.

With respect to Opposer's prayer for relief, Applicant expressly denies Opposer is entitled to any relief.

Additional Defenses/Responses

Applicant asserts the following additional defenses or responses to the Notice. The fact of an assertion below and herein does not amount to an admission or a denial that the matter set forth is properly characterized as an affirmative defense as opposed to a specific denial of a matter for which the Opposer bears the burden of proof, as such a determination is a matter of law for the Board.

1. Opposer owns no valid trademark rights to U.S. Registration Number 2936715.

2. U.S. Registration Number 2936715 is void and/or no longer in effect.

3. Opposer does not own the marks asserted by it in the Notice.

4. The doctrine of estoppel bars Opposer from asserting the facts and taking the positions asserted in the Notice, as an entity apparently related to Opposer and represented

by Opposer's same counsel has already claimed in the pending lawsuit that it, in contrast to Opposer, owns the rights and registration claimed to be owned by Opposer in the Notice.

5. There is no likelihood of confusion between the Applicant's applied for mark and Opposer's claimed marks.

6. There is no likelihood of dilution between the Applicant's applied for mark and Opposer's claimed marks.

7. Opposer's claimed marks are not famous.

8. To the extent Opposer is able to establish any rights in BELLA COLLINA or what it asserts as the BELLA COLLINA marks, such rights are weak and narrowly limited to construction and real estate development services, to Opposer's particular configuration of the mark, and/or Opposer's location in Florida, and BCE's use of its BELLA COLLINA EVENTS mark does not violate any such rights of DCS.

9. The allegations asserted in the Notice fail to state a claim and adequate legal grounds upon which relief can be granted against the Applicant in this proceeding.

10. The allegations asserted in the Notice fail to state adequate facts upon which relief can be granted against the Applicant in this proceeding.

11. Applicant reserves the right to, and may assert any and all other valid defenses and/counterclaims that may be learned of or developed through discovery and/or testimony in this proceeding.

WHEREFORE, Applicant requests that the Notice and Opposition proceeding be dismissed with prejudice, and Applicant's application be allowed to mature to registration.

Please recognize the following as attorneys for Applicant in this proceeding: David W. Sar (member of the Bar of the State of North Carolina), Kimberly M. Marston (member of the Bar of the State of North Carolina), and the firm of Brooks, Pierce, McLendon,

Humphrey & Leonard, L.L.P., Post Office Box 26000, Greensboro, NC 27420-6000.
Please address all communications to David W. Sar and Kimberly M. Marston at the
address below.

Respectfully submitted this 20th day of October, 2015.

/s/ Kimberly M. Marston

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*Attorneys for Applicant Bella Collina
Events, LLC*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing document has been served on the following by mailing said copy on October 20, 2015, via electronic mail and First Class Mail, postage prepaid:

Daniel J. Barsky, Esq.
SHUTTS & BOWEN LLP
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West Palm Beach, FL 33401
Attorney for Opposer DCS Investment Holdings, LLC

/s/ Kimberly M. Marston
Kimberly M. Marston