

ESTTA Tracking number: **ESTTA709764**

Filing date: **11/20/2015**

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

Proceeding	91224452
Party	Defendant LASTAR CAPITAL GROUP INC.
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Submission	Answer
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Date	11/20/2015
Attachments	Billion Dollar Man Answer.pdf(95473 bytes)

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

UNIVERSAL CITY STUDIOS LLC

Opposition No: 91224452

Opposer

Mark: THE BILLION DOLLAR MAN

Serial No: 86512465

Filed: October 20, 2015

V

LASTAR CAPITAL GROUP, INC.

Applicant

**ANSWER TO NOTICE OF OPPOSITION,
AFFIRMATIVE DEFENSES AND COUNTERCLAIM/OPPOSITION**

Applicant, LASTAR CAPITAL GROUP, INC., by and through undersigned counsel hereby submits its Answer to the Notice of Opposition, and in support hereof states:

1. Applicant Admits the allegations contained in Paragraphs 5 and 6 of the Opposition

2. Applicant Denies the allegations contained in Paragraph 7, 8, and 9 of the Opposition and demands strict proof thereof at trial.

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 1 and 4 of the Opposition.

4. With respect to Paragraph 2, Applicant is without sufficient knowledge as to whether Opposer “relies on its extensive common law rights” and is without sufficient knowledge as to whether these rights are extensive. Applicant is unaware as to what extent Opposer has maintained its rights in THE SIX MILLION DOLLAR MAN. With respect to whether Opposer owns THE SIX MILLION DOLLAR MAN, Applicant denies it is the owner and is aware of no registration for same. In fact, SIX MILLION DOLLAR MAN Registration No.: 4254577 is owned by ILL, INC., covering “Lawyer referrals; Medical referrals and Physician referrals” in Class 35.

5. With respect to Paragraph 3, Applicant is unaware of the extent of Opposer’s “continuous and substantial use” and whether or not Opposer’s “strong common law rights” remain as such today. Further, Applicant is unaware of what goodwill remains in THE SIX MILLION DOLLAR MAN today.

FIRST AFFIRMATIVE DEFENSE

LASTAR CAPITAL GROUP, INC reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Lanham Act, and any other defenses at law or in equity, that may now exist or in the future be available based on discovery and further factual investigation.

SECOND AFFIRMATIVE DEFENSE

Applicant was the first to file THE BILLION DOLLAR MAN.

THIRD AFFIRMATIVE DEFENSE

Opposer should be barred by laches for failing to register its mark.

FOURTH AFFIRMATIVE DEFENSE

Opposer has acquiesced in the use of SIX MILLION DOLAR MAN Registration No.: 4254577 owned by ILL, INC. and has lost its common law rights to protect the name.

FIFTH AFFIRMATIVE DEFENSE

Opposer allowed THE 10-MILLION-DOLLAR-MAN to obtain federal registration.

SIXTH AFFIRMATIVE DEFENSE

Opposer did not oppose BILLION DOLLAR MAN ENTERTAINMENT Registration No.: 77920367.

SEVENTH AFFIRMATIVE DEFENSE

Applicant's mark is different than Opposer's mark and is not likely to cause confusion with Opposer's mark. Applicant and Opposer can peacefully coexist without confusion in the marketplace.

EIGHTH AFFIRMATIVE DEFENSE

Applicant offers its goods to a different channel of consumers than Opposer's alleged use such that they can peacefully coexist without confusion in the marketplace.

NINTH AFFIRMATIVE DEFENSE

Opposer's mark is no longer famous or well-known and is entitled to less protection today.

TENTH AFFIRMATIVE DEFENSE

Opposer has failed to adequately police its mark leading to a loss of distinctiveness and the ability to distinguish itself in the minds of the consuming public.

ELEVENTH AFFIRMATIVE DEFENSE

Opposer's failure to seek registration of its mark should estop it from seeking rights it did not seek to protect.

TWELTH AFFIRMATIVE DEFENSE

Opposer's alleged continuous use is based merely to identify a character in a television show and should therefore not be entitled to protection.

THIRTEEN AFFIRMATIVE DEFENSE

Opposer abandoned its trademark rights and registration in the 1970s.

FOURTH AFFIRMATIVE DEFENSE

Opposer's alleged common law rights stem from a 1970s television show and do not extend to the class of goods covered by Applicants application.

WHEREFORE, Applicant requests that the subject opposition be dismissed with prejudice and Applicant's mark be allowed to proceed to registration, together with such further relief as is reasonable.

Respectfully submitted,

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Attorney for:
LASTAR CAPITAL GROUP, INC

ELECTRONIC MAILING CERTIFICATE

I hereby certify that the foregoing Answer to Notice of Opposition with Affirmative Defenses is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board ("ESTTA") on this 20th day of November, 2015

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Answer to Notice of Opposition with Affirmative Defenses was served upon Opposers by depositing a copy of same in the United States mail, first class postage prepaid, on this day of November, 2015, and by email to efiling@knobbe.com

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