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

Proceeding	91225414
Party	Defendant Container Club LLC
Correspondence Address	JAY SCHLOFF AIDENBAUM SCHLOFF AND BLOOM PLLC 6960 ORCHARD LAKE RD STE 250 WEST BLOOMFIELD, MI 48322-4584 jschloff@aidenbaum.com
Submission	Answer
Filer's Name	Jay Schloff
Filer's e-mail	jschloff@aidenbaum.com
Signature	/Jay Schloff/
Date	01/18/2016
Attachments	91225414 Container Club LLC Answer to Notice of Opposition 1.18.16.pdf(49382 bytes)

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

THE CONTAINER STORE, INC.,
Opposer,

Opposition No. 91225414
Mark: Container Club
Serial No. 86451903

-v-

CONTAINER CLUB LLC,
Applicant.

_____)

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant Container Club LLC (“Applicant”), by and through its attorneys Aidenbaum Schloff and Bloom PLLC, answers the Notice of Opposition of The Container Store, Inc. (“Opposer”) as follows:

1. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
2. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
3. The content of the registration speaks for itself, and Applicant neither admits nor denies the remainder of the allegations, leaving Opposer to its burden of proof.
4. The content of the registrations speaks for itself, and Applicant neither admits nor denies the remainder of the allegations, leaving Opposer to its burden of proof.
5. The content of the registrations speaks for itself, and Applicant neither admits nor denies the remainder of the allegations, leaving Opposer to its burden of proof.
6. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
7. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
8. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.

9. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
10. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
11. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
12. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
13. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
14. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
15. Denied.
16. Admitted.
17. Applicant admits being owner of the application in question, and the content of the application otherwise speaks for itself.
18. Denied.
19. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
20. Denied.
21. Denied.
22. Denied.
23. Denied.
24. Denied.
25. Denied.
26. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
27. Denied.
28. Denied.
29. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.
30. Neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.

31. Denied.

32. Denied.

33. Denied.

34. Denied that Opposer's mark has become famous under 15 U.S.C. § 1125(c) among consumers in the U.S. and amongst the relevant consuming public. As to the remainder of the allegations, neither admitted nor denied, and Applicant leaves Opposer to its burden of proof.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

WHEREFORE, Applicant prays that Opposer's Notice of Opposition be dismissed and that any and all relief requested therein be denied.

Correspondence Address:

Please direct all communications to:

Jay M. Schloff
Aidenbaum Schloff and Bloom PLLC
6960 Orchard Lake Road, Suite 250
West Bloomfield, MI 48322
(248) 865-6500
jschloff@aidenbaum.com

Respectfully submitted,

AIDENBAUM SCHLOFF AND BLOOM PLLC

/s/ Jay Schloff

DATED: January 18, 2016

Jay M. Schloff
Attorneys for Applicant
6960 Orchard Lake Road, Suite 250
West Bloomfield, MI 48322
(248) 865-6500
jschloff@aidenbaum.com

AFFIRMATIVE AND/OR SPECIAL DEFENSES

1. Opposer's marks are generic.
2. Opposer's marks are not famous within the meaning of 15 U.S.C. § 1125(c).
3. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.
4. Opposer's Notice of Opposition is barred in whole or in part by the statute of limitations and/or the doctrine of laches.
5. Opposer's action is barred or Opposer is not entitled to relief due to Opposer's acquiescence to Applicant's use of the mark in question.
6. By its acts and omissions, Opposer has consented to and has waived, and is estopped from complaining about any alleged acts or omissions by the Applicant, which acts or omissions Applicant denies, and Applicant is excused from any liability to the Opposer for such acts and omissions.
7. Opposer's action is barred or Opposer is not entitled to relief for the reason that the alleged acts or omissions by Applicant, which acts or omissions Applicant denies, were made in good faith after the exercise of reasonable care by Applicant.
8. Opposer has failed to take any action to mitigate damages, if any.

9. Opposer's action is barred and/or Opposer is not entitled to relief for the reason that Applicant was not enriched by the conduct alleged in Opposer's Notice of Opposition.

10. Opposer's action is barred or Opposer is not entitled to relief for the reason that Applicant's actions were based solely upon legitimate business reasons and fall within the business judgment rule.

11. Opposer's action is barred or Opposer is not entitled to relief for the reason that no consumer confusion exists between the parties' marks.

12. Opposer's action is barred or Opposer is not entitled to relief for the reason that Opposer has not suffered any damages and has not articulated any specific damages that it has allegedly suffered.

13. Opposer's action is barred or Opposer is not entitled to relief for the reason that Opposer's mark will not be diluted by registration or allowing use of Applicant's mark.

14. Opposer's action is barred or Opposer is not entitled to relief for the reason that Applicant has not infringed, did not infringe, and is not infringing on any of Opposer's marks and/or any alleged copyright possessed by Opposer.

Respectfully submitted,

AIDENBAUM SCHLOFF AND BLOOM PLLC

/s/ Jay Schloff

DATED: January 18, 2016

Jay M. Schloff
Attorneys for Applicant
6960 Orchard Lake Road, Suite 250
West Bloomfield, MI 48322
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jschloff@aidenbaum.com

RESERVATION OF RIGHTS

Applicant reserves the right to supplement or amend its responses and affirmative defenses as necessary through the course of discovery and/or its investigation of this matter.

Respectfully submitted,

AIDENBAUM SCHLOFF AND BLOOM PLLC

/s/ Jay Schloff

DATED: January 18, 2016

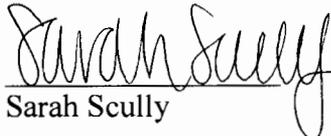
Jay M. Schloff
Attorneys for Applicant
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West Bloomfield, MI 48322
(248) 865-6500
jschloff@aidenbaum.com

CERTIFICATE OF SERVICE

I certify that the foregoing pleading was served upon all parties to the above cause to

Craig C. Carpenter
Deborah L. Lively
Thompson & Knight LLP
1722 Routh Street Suite 1500
Dallas, TX 75201

via first-class mail, with sufficient postage placed thereon, on January 18, 2016.


Sarah Scully