

ESTTA Tracking number: **ESTTA742389**

Filing date: **04/26/2016**

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

Proceeding	91226919
Party	Defendant Ashleigh Mason, LLC
Correspondence Address	CANDICE E. KIM Greenberg Traurig Llp 1840 Century Park E Ste 1900 Los Angeles, CA 90067-2121 gtipmail@gtlaw.com;kimce@gtlaw.com;link
Submission	Answer
Filer's Name	Candice E. Kim
Filer's e-mail	kimce@gtlaw.com, gtipmail@gtlaw.com
Signature	/cek/
Date	04/26/2016
Attachments	132563934_1.pdf(109344 bytes)

7. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 7 of the Notice and therefore denies the same.

8. Denied.

9. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 9 of the Notice and therefore denies the same.

10. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 10 of the Notice and therefore denies the same.

11. Applicant is without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 10 of the Notice and therefore denies the same.

12. Denied.

Applicant denies that Opposer is entitled to any relief, including the relief sought in the WHEREFORE clause of its Notice.

AFFIRMATIVE DEFENSES

13. Opposer's Opposition is barred because Applicant has priority over the Opposer, such that any rights Opposer may have in its asserted mark are inferior to Applicant's rights. Opposer does not own any registrations, intent-to-use or actual use applications for its asserted mark, nor has Opposer made any use in commerce, including "analogous use," entitling Opposer to the relief requested in its Notice. Specifically, even assuming Opposer's assertions of use in its Notice are true, such use does not constitute analogous use because it was not open and notorious or of such a nature and extent that Opposer's asserted mark has become popularized in the public mind. In short, Opposer has nothing to base its claim of priority over Applicant.

14. Opposer's Opposition is barred because of the doctrine of laches. Opposer does not own any active registrations, actual use applications or intent-to-use applications for its asserted mark, nor has Opposer made any use analogous to trademark use of its mark (i.e., open and notorious). Applicant's

adoption of its mark was relied, in part, upon Opposer's silence and inaction, and Applicant will be materially prejudiced if Opposer's alleged rights are permitted to be asserted.

15. Opposer's Opposition is barred because of acquiescence. Opposer does not own any active registrations, actual use applications or intent-to-use applications for its asserted mark, nor has Opposer made any use analogous to trademark use of its mark (i.e., open and notorious). Applicant's adoption of its mark was relied, in part, upon Opposer's silence and inaction, and Applicant will be materially prejudiced if Opposer's alleged rights are permitted to be asserted.

16. Opposer's Opposition is barred based on equitable estoppel. Opposer does not own any active registrations, actual use applications or intent-to-use applications for its asserted mark, nor has Opposer made any use analogous to trademark use of its mark (i.e., open and notorious). Applicant's adoption of its mark was relied, in part, upon Opposer's silence and inaction, and Applicant will be materially prejudiced if Opposer's alleged rights are permitted to be asserted.

PRAYER FOR RELIEF

WHEREFORE, Applicant contends that the Notice of Opposition is without grounds and requests judgment denying the Opposition and this proceeding in its entirety with prejudice, and for such other and further relief as the Board deems just and proper.

Dated: April 26, 2016

Respectfully submitted,

By: 

Candice E. Kim
GREENBERG TRAURIG, LLP
1840 Century Park East, Suite 1900
Los Angeles, California 90067
Phone: (310) 586-3867
Fax: (310) 586-0567
Email: kimce@gtlaw.com;
GTIPMAIL@gtlaw.com

Counsel for Applicant

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that a true copy of the foregoing ANSWER is being filed electronically with the United States Patent and Trademark Office Trademark Trial and Appeal Board and being served by First Class Mail, postage prepaid, on April 26, 2016, on the following:

Jungjin Lee
Erin C. Bray
Trademark Lawyer Law Firm, PLLC
455 E. Eisenhower, Suite 360
Ann Arbor, MI 48108


