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

Proceeding	91227715
Party	Plaintiff Cowboy Artists of America
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Date	07/14/2016
Attachments	Cowboy Artists of America TTAB Answer.pdf(8792 bytes)

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

In re Application of:

CA CALATLANTIC FINANCIAL SERVICES and Design, Ser. No. 86/772,034, published January 5, 2016; CA CALATLANTIC HOMES and Design, Ser. No. 86/770,748, published January 5, 2016; CA CALATLANTIC HOMES and Design, Ser. No. 86/770,724, published January 5, 2016; CA CALATLANTIC INSURANCE and Design, Ser. No. 86/770,766, published January 5, 2016; CA CALATLANTIC INSURANCE and Design, Ser. No. 86/770,759, published January 5, 2016; CA CALATLANTIC MORTGAGE and Design, Ser. No. 86/770,784, published January 5, 2016; CA CALATLANTIC MORTGAGE and Design, Ser. No. 86/770,774, published January 5, 2016; CA CALATLANTIC DESIGN CENTER and Design, Ser. No. 86/772,171, published January 12, 2016; CA CALATLANTIC DESIGN CENTER and Design, Ser. No. 86/772,187, published January 12, 2016; CA CALATLANTIC DESIGN STUDIO and Design, Ser. No. 86/772,110, published January 12, 2016; CA CALATLANTIC DESIGN STUDIO and Design, Ser. No. 86/772,097, published January 12, 2016; CA CALATLANTIC FINANCIAL SERVICES and Design, Ser. No. 86/772,044, published January 12, 2016; CA CALATLANTIC GROUP, INC. and Design, Ser. No. 86/772,077, published January 12, 2016; CA CALATLANTIC GROUP, INC. and Design, Ser. No. 86/772,062, published January 12, 2016; CA CALATLANTIC MYSTYLE DESIGN CENTER and Design, Ser. No. 86/772,146, published January 12, 2016; CA CALATLANTIC TITLE and Design, Ser. No. 86/770,812, published January 19, 2016; CA CALATLANTIC TITLE and Design, Ser. No. 86/770,798, published January 19, 2016; CA CALATLANTIC MYSTYLE DESIGN CENTER and Design, Ser. No. 86/772,132, published January 26, 2016; and CA and Design, Ser. No. 86/770,702, published March 1, 2016

Cowboy Artists of America
Opposer/Respondent,
v.
CalAtlantic Group, Inc.
Applicant/Petitioner.

Opposition No. 91227715

**ANSWER TO APPLICANT/PETITIONER'S COUNTERCLAIM
TO PETITION TO CANCEL**

Opposer/Petitioner, Cowboy Artists of America (“Cowboy Artists”), responds to Applicant/Petitioner CalAtlantic Group, Inc.’s (“Applicant/Petitioner”) Counterclaim for Cancellation of Cowboy Artists’ Federal Registration No. 926589, as follows:

1. Cowboy Artists admits the allegations set forth in Paragraph 1.
2. Cowboy Artists admits the allegations set forth in Paragraph 2.
3. Cowboy Artists admits the allegations set forth in Paragraph 3.
4. Cowboy Artists admits the allegations set forth in Paragraph 4.

5. Cowboy Artists admits it submitted a Declaration of Use in 2012 and that the Declaration of Use and accompanying specimens were accepted by the United States Patent and Trademark Office. Cowboy Artists respectfully refers the Board to those documents for their content and details. Cowboy Artists denies each and every remaining allegation set forth in Paragraph 5. To the extent Paragraph 5 contains Applicant/Petitioner's legal conclusions, no response is required.

6. Cowboy Artists admits it submitted multiple specimens in 2012 along with its Declaration of Use and that these specimens were accepted by the United States Patent and Trademark Office. Cowboy Artists respectfully refers the Board to those specimens for their content and details. Cowboy Artists denies each and every remaining allegation set forth in Paragraph 6, including the individually bulleted paragraphs incorporated into Paragraph 6. To the extent Paragraph 6 contains Applicant/Petitioner's legal conclusions, no response is required.

7. Cowboy Artists denies the allegations set forth in Paragraph 7. To the extent Paragraph 7 contains Applicant/Petitioner's legal conclusions, no response is required.

8. Cowboy Artists denies the allegations set forth in Paragraph 8. To the extent Paragraph 8 contains Applicant/Petitioner's legal conclusions, no response is required.

9. Cowboy Artists denies the allegations set forth in Paragraph 9. To the extent Paragraph 9 contains Applicant/Petitioner's legal conclusions, no response is required.

10. Cowboy Artists denies the allegations set forth in Paragraph 10.

11. Cowboy Artists denies the allegations set forth in Paragraph 11. To the extent Paragraph 11 contains Applicant/Petitioner's legal conclusions, no response is required.

12. Cowboy Artists denies the allegations set forth in Paragraph 12.

AFFIRMATIVE DEFENSES

1. Applicant/Petitioner has failed to state a claim upon which relief may be granted.

2. Applicant/Petitioner's claims are barred in whole or in part by the doctrine of waiver.

3. Applicant/Petitioner's claims are barred in whole or in part by the doctrine of laches.

4. Applicant/Petitioner's claims are barred in whole or in part by the doctrine of acquiescence.

5. Cowboy Artists reserves the right to add further defenses and amend its Answer as the circumstances warrant.

WHEREFORE, Cowboy Artists respectfully requests that the Trademark Trial and Appeal Board deny Applicant/Petitioner's Counterclaim for Cancellation of Cowboy Artists' Federal Registration No. 926589.

DATED this 14th day of July, 2016.

By /s/ Emily A. Bayton
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Applicant/Petitioner's Counterclaim to Petition to Cancel has been served on the Applicant/Petitioner's Attorney of Record, by mailing and emailing said copy on 14 July 2016 by First Class Mail, postage prepaid to the following:

Emilia F. Cannella
Ropes & Gray LLP
800 Boylston Street, Suite 3600
Boston, Massachusetts 02199

And

Evan Gourvitz
Ropes & Gray LLP
1211 Avenue of the Americas
New York, New York 10036

Dated: July 14, 2016

/s/ Karen Wildman