



- 1-7A13

12-02-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #7:

KALM.01CN

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

Shelly Ann Madsen and Eric David)
Madsen, dba Mrs. California)
International,)
)
Petitioner,)
)
v.)
)
KALL-MED, Inc.,)
)
Registrant.)

Cancellation No. 92041087

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Box TTAB, No Fee Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on

November 29, 2002
(Date of Deposit)

John C. Lambertsen, Reg. No. 29,400
Name of Registrant, assignee or Registered Representative

John C. Lambertsen
Signature

November 29, 2002
Date of Signature

ANSWER

Box TTAB
NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

In response to the Petition for Cancellation served by the Board on October 19, 2002, KALL-MED, Inc., (hereinafter "Registrant") answers the cancellation identified above as follows:

1. Registrant admits that it obtained Registration No. 2,397,364 for goods in International Class 014, namely "custom jewelry using a unique crown design" (emphasis added). Registrant admits the remaining allegations of Paragraph 1.
2. Registrant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 2 and therefore denies the same.

ANSWER

Cancellation No.: 92041087

3. Registrant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 3 and therefore denies the same.

4. Registrant admits that there are one or more other beauty pageants making use of the term "CALIFORNIA" as a portion of the name used for identification and promotion of such pageant(s). Petitioner denies that the term "MRS. CALIFORNIA" cannot serve as a source identifier, and is without knowledge or information sufficient to form a belief as to the remaining allegations of Paragraph 4 and therefore denies the same.

5. Registrant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 5 and therefore denies the same.

6. Registrant admits that there are one or more other beauty pageants making use of the term "CALIFORNIA" as a portion of the name used for identification and promotion of such pageant(s). Registrant is without knowledge or information sufficient to form a belief as to the remaining allegations of Paragraph 6 and therefore denies the same.

7. To the extent that such allegations are understood, Registrant denies the allegations of Paragraph 7.

8. To the extent that such allegations are understood, Registrant denies the allegations of Paragraph 8.

9. Registrant denies the allegations of Paragraph 9.

ANSWER

Cancellation No.: 92041087

10. Registrant denies the allegations of Paragraph 10.

11. Registrant denies the allegations of Paragraph 11.

12. Registrant denies the allegations of Paragraph 12.

13. Registrant denies the allegations of Paragraph 13.

14. Registrant admits that Petitioner's use of the term "MRS. CALIFORNIA" in the context of a beauty pageant may create a likelihood of confusion with the trademark rights of Registrant. Registrant is without knowledge or information sufficient to form a belief as to the remaining allegations of Paragraph 14 and therefore denies the same.

15. Registrant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 15 and therefore denies the same.

AFFIRMATIVE DEFENSES

In further answer to the Petition for Cancellation, Registrant asserts that:

16. Petitioner's Petition for Cancellation fails to state a claim against Registrant upon which relief can be granted.

17. There is no likelihood of confusion between "MRS. CALIFORNIA" and "MRS. CALIFORNIA INTERNATIONAL" in that the marks are not identical and they provide an entirely different commercial impression.

18. There is no likelihood of confusion between "MRS. CALIFORNIA" and "MRS. CALIFORNIA INTERNATIONAL" in that:

ANSWER

Cancellation No.: 92041087

Registrant's "MRS. CALIFORNIA" mark has been used continuously and not abandoned since its adoption on or before April 8, 1994; and to the best of Registrant's information, knowledge, and belief, to the extent that such concurrent usage ("MRS. CALIFORNIA" - "MRS. CALIFORNIA INTERNATIONAL") has existed, such use has been entirely devoid of evidence, whether direct or circumstantial, indicating the existence of actual confusion.

WHEREFORE, Registrant, KALL-MED, Inc., requests that the cancellation petition be denied in all respects.

Respectfully submitted,

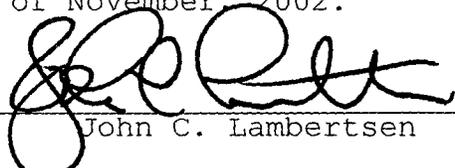
KENEHAN & LAMBERTSEN, LTD.

Dated: 29 November 2002 By:


John C. Lambertsen
Registration No. 29,400
1771 E. Flamingo Road,
Suite 211B
Las Vegas, NV 89119-5154
(702) 796-3476
jlambertsen@kenehan.com
Attorneys for Registrant

CERTIFICATE OF SERVICE

I, John C. Lambertsen, certify that a copy of the foregoing ANSWER was personally served on Stephen L. Anderson, Esq., 610 Newport Center Drive, Ste. 450, Newport Beach, CA 92660-6435, via First Class Mail, this 29th day of November, 2002.


John C. Lambertsen