

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

To the Assistant Commissioner for Trademarks
Box TTAB
2900 Crystal Drive
Arlington, Virginia 22202-3513

02-14-2003

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

In the matter of Application Serial No. 78/095,980, Published in the Official Gazette on July 16, 2002

MJCM, L.L.C.,)
)
Opposer,)
)
v.)
)
F.N.B. CORPORATION,)
)
Applicant.)
)
)

Opposition No. 91153220

CERTIFICATE OF MAILING

I HEREBY CERTIFY that the original of this Applicant's Unopposed Motion for Leave to File Amended Answer and Affirmative Defenses is being sent via U.S. Express Mail #EJ223674108US_ addressed to the Assistant Commissioner for Trademarks, Box TTAB - No Fee, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on February 13, 2003.

Margaret L. McMorrow
Margaret L. McMorrow, Esquire

**APPLICANT F.N.B. CORPORATION'S UNOPPOSED MOTION FOR LEAVE TO FILE
AMENDED ANSWER AND AFFIRMATIVE DEFENSES**

Applicant **F.N.B. CORPORATION** (hereinafter "Applicant"), by and through the undersigned attorney, hereby files this Unopposed

OPPOSITION NO. 91153220

Motion for Leave to File Amended Answer and Affirmative Defenses in accordance with 37 C.F.R. §2.107 and Fed. R. Civ. P. 15(a). A copy of the proposed Amended Answer to Opposition and Affirmative Defenses is attached hereto as **Exhibit 1**. Opposer's pending Motion to Strike Matter from Applicant's Answer to Opposition and Affirmative Defenses should therefore be denied as moot. No prejudice will result to the Opposer by the amended pleading.

The undersigned counsel has conferred with counsel for Opposer, Steve Lauff, who is in full agreement with this motion.

WHEREFORE, for the foregoing reasons, this motion should be GRANTED.

Respectfully submitted,

Margaret L. Whitelaw

Jennifer L. Whitelaw, Esquire
Florida Bar No. 0938629
Attorney for Applicant
Margaret L. McMorro, Esquire
Florida Bar No. 156000
Attorney for Applicant

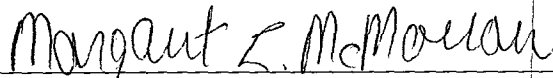
F.N.B. CORPORATION

3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
Telephone: (239) 262-1001
Facsimile: (239) 261-0057
Email: j@jenniferwhitelaw.com

OPPOSITION NO. 91153220

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on Steve Lauff, Esquire, John Courtney, Esquire, Andrews & Kurth, L.L.P., 600 Travis Street, Suite 4200, Houston, Texas 77002-3090, via first class mail, postage prepaid, on February 13, 2003.



MARGARET L. MCMORROW

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

To the Assistant Commissioner for Trademarks
Box TTAB
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Arlington, Virginia 22202-3513

02-14-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

In the matter of Application Serial No. 78/095,980, Published in the Official Gazette on July 16, 2002

MJCM, L.L.C.,)
)
Opposer,)
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v.)
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F.N.B. CORPORATION,)
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Applicant.)
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Opposition No. 91153220

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Margaret L. McMorrow
Margaret L. McMorrow, Esquire

**APPLICANT'S AMENDED ANSWER TO OPPOSITION
AND AFFIRMATIVE DEFENSES**

Applicant **F.N.B. CORPORATION**, hereby files its Amended Answer to Opposition and Affirmative Defenses filed by Opposer,



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MJCM, LLC, and states as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.
2. Applicant admits the allegations of paragraph 2.
3. Applicant denies the allegations of paragraph 3.
4. Applicant denies the allegations of paragraph 4.
5. Applicant denies the allegations of paragraph 5.
6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6.
7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7.
8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8.
9. Opposer has misstated the law and therefore Applicant denies the allegations of paragraph 9.
10. Applicant denies the allegations of paragraph 10.
11. Applicant denies the allegations of paragraph 11.
12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of

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paragraph 12.

13. Applicant would state that the referenced registration speaks for itself. Applicant admits that U.S. Trademark Registration No. 2349601 is for a mark which disclaims both the terms BOUNCE and PROTECTION, and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 13.
14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14.
15. Applicant denies the allegations of paragraph 15.
16. Applicant denies the allegations of paragraph 16.
17. Applicant denies the allegations of paragraph 17.
18. Applicant denies the allegations of paragraph 18.
19. Applicant denies the allegations of paragraph 19.
20. Applicant denies the allegations of paragraph 20.

WHEREFORE, Applicant, **F.N.B. CORPORATION**, prays that this opposition would be terminated in favor of Applicant.

FIRST AFFIRMATIVE DEFENSE

Opposer lacks standing to bring this opposition.

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SECOND AFFIRMATIVE DEFENSE

Opposer's action is barred by laches.

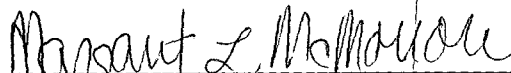
THIRD AFFIRMATIVE DEFENSE

Opposer has lost any rights it may have in the subject mark by acquiescence.

FOURTH AFFIRMATIVE DEFENSE

Opposer's mark is not entitled to the protection Opposer seeks herein because the registration is for a mark which is merely descriptive of the service as provided by Plaintiff, according to the statements made by Opposer in the Notice of Opposition.

Respectfully submitted,



Jennifer L. Whitelaw, Esquire
Florida Bar No. 0938629
Attorney for Applicant
Margaret L. McMorrow, Esquire
Florida Bar No. 156000
Attorney for Applicant

F.N.B. CORPORATION

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MARGARET L. MCMORROW

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INTELLECTUAL PROPERTY
AND RELATED CAUSES

MARGARET L. MCMORROW, ATTORNEY
email: maggiemcmorrow@whitelawfirm.com



VIA U.S. EXPRESS MAIL #EJ223674108US

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February 13, 2003

Assistant Commissioner for Trademarks
Box TTAB
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Re: MJCM, L.L.C. v. F.N.B. CORPORATION
Opposition No. 91153220

02/14/2003

Dear Sir or Madam:

Enclosed for filing is Applicant F.N.B. Corporation's Unopposed Motion for Leave to File Amended Answer and Affirmative Defenses.

Please date stamp and return the self addressed stamped postcard which is also enclosed.

Thank you.

Sincerely,

Margaret L. McMorrow

Enclosures - 2
cc: James G. Orie, Esquire

DD