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

<b>Proceeding</b>	91158657
<b>Party</b>	Defendant VILLAGE CANDLE INC. VILLAGE CANDLE INC. 65 TOPSHAM FAIR MALL RD. TOPSHAM, ME 04086
<b>Correspondence Address</b>	KEVIN R HALEY BRANN & ISAACSON 184 MAIN STREET PO BOX 3070 LEWISTON MAI, NE 04243-3070
<b>Submission</b>	Answer
<b>Filer's Name</b>	Kevin R. Haley, Esq.
<b>Filer's e-mail</b>	khaley@brannlaw.com
<b>Signature</b>	/Kevin R. Haley/
<b>Date</b>	01/13/2004
<b>Attachments</b>	Village Candle Answer.pdf ( 3 pages )

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

In the Matter of Trademark Application Serial No. 76/354824

For the Mark: VILLAGE HOME

Published in the Official Gazette: June 17, 2003

Applicant: Village Candle, Inc.

VILLAGE HOMES OF COLORADO, INC.

Opposer

v.

VILLAGE CANDLE, INC.

Applicant.

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Box TTAB

NO FEE

Commissioner for Trademarks

2900 Crystal Drive

Arlington, Virginia 22202-3514

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Village Candle, Inc., a Maine corporation, hereby Answers Opposer's Notice of Opposition, and states as follows:

1. The averments of paragraph 1 are Admitted as to publication of Applicant's mark VILLAGE HOME. The remaining averments contained in paragraph 1 are Denied for the reason that Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments.

2. Denied for the reason that Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 2.
3. Denied for the reason that Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 3.
4. Denied for the reason that Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 4.
5. Admitted.
6. The averments of paragraph 6 are Denied. In further answer, Applicant states that it has used the mark VILLAGE HOME in connection with wholesale store, retail store, mail order and computerized on-line services featuring candles, home furnishings, and all related accessories in commerce in the United States since at least December 11, 2001.
7. The averments contained in paragraph 7 are Denied. In further answer, Applicant states that the words VILLAGE HOME and design are not confusingly similar to Opposer's mark, the goods/services on which the Applicant's mark is used are not similar to Opposer's, and there is no likelihood of confusion between Applicant's mark and Opposer's mark.
8. The averments of paragraph 8 are Denied.
9. Denied for the reason that Applicant is without information sufficient to form a belief as to the truth of the averments contained in paragraph 9.
10. The averments of paragraph 10 are Denied.

### **DEFENSES**

Applicant alleges and asserts the following defenses in response to the allegations contained in Opposer's Notice of Opposition, undertaking the burden of proof only as those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein:

1. The words VILLAGE HOME and its design are not confusing and there is no actual or likelihood of confusion between Opposer's mark and VILLAGE HOMES such that would cause confusion in interstate commerce.
2. Opposer seeks rights in gross with respect to the words "Village Homes" and all its derivations in contravention of established principles of trademark law.
3. Opposer is misusing its trademarks in violation of federal antitrust laws through an impermissible attempt to expand the scope of its existing registrations.

4. Opposer's rights in its trademarks are set forth in its registrations and do not encompass Applicant's goods or services.
5. Opposer fails to state a claim upon which relief can be granted.
6. Opposer's claims are barred by the doctrine of laches.
7. Opposer's claims are barred by estoppel and/or estopped from obtaining the relief requested.
8. Opposer has not sustained any damages as a result of the Applicant's use of its mark VILLAGE HOME (& design) in International Class 35.

WHEREFORE, Applicant prays that Application Serial No. 76/354824 in Class No. 35 be sustained and that Opposer's Opposition be denied.

Dated: January 13, 2004

Respectfully submitted,

/Kevin R. Haley/

Kevin R. Haley, Esq.

Attorney for Applicant Village Candle, Inc.

BRANN & ISAACSON

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