

UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD



06-07-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

BARROW ENERGIES, INC. )  
)  
Opposer, )  
)  
v. )  
)  
FERRELLGAS PARTNERS, L.P. )  
)  
Applicant. )

Opposition No. 91160296  
Serial No. 76/516,019

ANSWER TO NOTICE OF OPPOSITION

Applicant, Ferrellgas Partners, L.P., in response to the Notice of Opposition filed by Opposer, Barrow Energies, Inc., states as follows:

1. Applicant admits the allegations of paragraph 1.
2. Applicant denies the allegations of paragraph 2.
3. Applicant admits that Opposer has used the mark BARROW ENERGIES in association with its gas supply services since May 20, 2003; Applicant denies each and every remaining allegation in paragraph 3. Further, Applicant states that Opposer's use has been and infringing and illegal.
4. Applicant denies the allegations of paragraph 4.

CERTIFICATE OF MAILING

I hereby certify that this Applicant's Answer to Notice of Opposition is being deposited in and 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, Virginia 22202-3514, this 3rd day of June, 2004

Hovey Williams LLP  
*Vasuki Selvan*  
Vasuki Selvan

5. Applicant admits that both Applicant and Opposer operate their businesses in an area that includes in and around Butler, Georgia. Applicant denies all remaining allegations in paragraph 5 based on a lack of sufficient information.

6. Applicant admits that there is a Barrow County, Georgia; Applicant denies that the BARROW used as the dominant portion of its mark identifies such county, and denies each and every remaining allegation in paragraph 6.

7. Applicant denies the allegations of paragraph 7.

8. Applicant denies the allegations of paragraph 8, except that Applicant admits that use of its mark was in existence as of December 13, 2002, as part of the ongoing use of its BARROW mark since at least as early as 1980.

9. Applicant incorporates by reference its responses to paragraphs 1 through 8.

10. Applicant denies the allegations of paragraph 10.

11. Applicant denies the allegations of paragraph 11.

12. Applicant denies the allegations of paragraph 12.

13. Applicant denies the allegations of paragraph 13.

14. Applicant denies the allegations of paragraph 14.

15. Applicant incorporates by reference its responses to paragraphs 1 through 14.

16. Applicant denies the allegations of paragraph 16.

17. Applicant admits that its mark incorporates the term BARROW; Applicant denies each and every remaining allegation contained in 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.

21. Applicant incorporates by reference its responses to paragraphs 1 through 20.
22. Applicant denies the allegations of paragraph 22.
23. Applicant denies the allegations of paragraph 23.
24. Applicant denies the allegations of paragraph 24.
25. Applicant denies that Opposer will be damaged and each and every remaining allegation contained in the Notice of Opposition unless specifically admitted herein.
26. Applicant denies that the Opposer is entitled to any relief.
27. Opposer's Notice of Opposition, and each count thereof, fails to state a claim upon which relief can be granted.
28. Opposer has failed to sufficiently plead that Applicant's mark is not registrable as primarily merely a surname.
29. Opposer has failed to sufficiently plead that Applicant's mark is not registrable due to being merely geographically descriptive.
30. Opposer has failed to sufficiently plead its claim of fraud on the Patent and Trademark Office.
31. Opposer's opposition is barred by the doctrine of unclean hands and laches.
32. Any use upon which Opposer bases its claim of injury is infringing use and thus, not entitled to serve as a basis for opposition.
33. Opposer lacks sufficient standing.
34. Opposer's officers, owners, or those in privity with them, transferred the original BARROW mark to the Applicant's predecessor in interest. Thus, Opposer is estopped from now claiming that Applicant's mark is not entitled to registration.

WHEREFORE, having fully responded, Applicant requests that the Notice of Opposition be dismissed.

Respectfully submitted,  
**FERRELLGAS PARTNERS, L.P.**

HOVEY WILLIAMS LLP

By  \_\_\_\_\_

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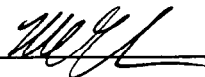
ATTORNEYS FOR APPLICANT

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of Answer to Notice of Opposition was mailed, first class, postage prepaid, this 3rd, day of June, 2004 to the following:

Jeffrey B. Sladkus  
Womble Carlyle Sandridge & Rice, PLLC  
1201 Peachtree Street, Suite 3500  
Atlanta, Georgia 30309

ATTORNEYS FOR OPPOSER

 \_\_\_\_\_

TTAB

LAW OFFICES

**Hovey Williams LLP**

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06-07-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

June 3, 2004

Via First Class Mail

Box TTAB - NO FEE  
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2900 Crystal Drive  
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**Re: Barrow Energies, Inc. v. Ferrellgas Partners, L.P.  
Opposition No. 91160296 re Serial No. 76/516,019  
ANSWER TO OPPOSITION**

Dear Sir or Madam:

Enclosed please find the materials necessary for transmittal of Applicant, Ferrellgas Partners, L.P.'s, ANSWER TO OPPOSITION, regarding the above-referenced proceeding.

1. Original and two copies of ANSWER TO OPPOSITION regarding the pending application for BARROW PROPANE GAS; and
2. A self-addressed stamped postal acknowledgment card.

Please do not hesitate to contact the undersigned at (816) 474-9051, Extension 386, if you have any questions.

Kind Regards,

*Vasuki Selvan*  
Vasuki Selvan  
Trademark Specialist

Enclosures