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

Proceeding	91161969
Party	Plaintiff RITZ-CARLTON HOTEL COMPANY, LLC, THE RITZ-CARLTON HOTEL COMPANY, LLC, THE 3414 PEACHTREE ROAD, N.E., STE 300 ATLANTA, GA 30326
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Date	05/24/2006
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 76/553029 for the mark RITZ
filed October 21, 2003 and published June 22, 2004

THE RITZ-CARLTON HOTEL COMPANY, L.L.C.,	)	
Opposer	)	
v.	)	Opp. No. 91161969
ROBERT B. WILCOX,	)	
Applicant	)	

OPPOSER'S MOTION FOR LEAVE
TO AMEND NOTICE OF OPPOSITION

Pursuant to 37 C.F.R. § 2.107 and Rule 15(a) of the Federal Rules of Civil Procedure, Opposer The Ritz-Carlton Hotel Company, L.L.C. ("Opposer") hereby moves for leave to amend its notice of opposition in the above referenced proceeding. An amended notice of opposition is submitted herewith. The only new matter added to the amended notice of opposition is contained in paragraphs 2 and 3. The new matter in these paragraphs concerns facts relating to new registrations acquired by Opposer and the fact that certain of Opposer's registrations have recently become incontestable. The remaining paragraphs are unchanged.

The Board's leave is requested so that Opposer may rely on U.S. Registration Nos. 2934838 for the mark RITZ (issued on March 22, 2005) and 3079520 for the mark PUTTIN' ON THE RITZ (issued on April 11, 2006), both of which are material to this proceeding. The Board's leave is also requested so that Opposer may rely on the fact that certain of its registrations have recently become incontestable, namely, U.S. Registration Nos. 2298901 for

the mark RITZ-CARLTON (incontestable as of February 9, 2005), 2386118 for the mark THE RITZ-CARLTON & DESIGN (incontestable as of March 17, 2006), and 2388768 for the mark THE RITZ-CARLTON CLUB (incontestable as of March 17, 2006), which registrations were pled in the Notice of Opposition and which are material to this proceeding. All of the foregoing registration dates and acknowledgements of incontestability dates were subsequent to both the filing of Opposer's notice of opposition on August 23, 2004 and the institution of the opposition proceeding on September 3, 2004.

Permission for leave to amend a pleading "shall be freely given when justice so requires." F.R.C.P. 15(a). In this case, the interests of justice will be served by allowing Opposer to amend its notice of opposition to plead ownership of Opposer's recently acquired registrations and the fact that certain of Opposer's registrations have recently become incontestable.

Permitting an amendment at this stage in the proceeding will not prejudice Applicant. Because the amended notice contains matter which the Board should consider in order to make a fair evaluation of this proceeding, the policy underlying Rule 15(a) will be advanced by the granting of this motion for leave to amend. The amendment also will serve to make the pleadings confirm to the evidence in this proceeding.

THE RITZ-CARLTON HOTEL
COMPANY, L.L.C.

Dated: 5/24/06

By: _____

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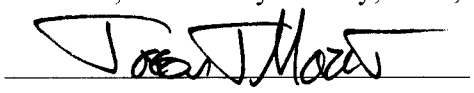
The Ritz-Carlton Hotel Company, L.L.C.

TECH/420309.1

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing **Opposer's Motion For Leave To Amend Notice of Opposition** and attached **Amended Notice of Opposition** (re Opposition No. 91161969) has been served on Applicant's Counsel Richard D. Clarke, Esq., Law Office of Richard D. Clarke, 3755 Avocado Blvd., #100, La Mesa, California 91941-7301, this 24 day of May, 2006, by first class mail, postage prepaid.



TECH/420309.1

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THE RITZ-CARLTON HOTEL COMPANY, L.L.C.,	)	
Opposer	)	
v.	)	Opp. No. 91161969
ROBERT B. WILCOX,	)	
Applicant	)	

AMENDED NOTICE OF OPPOSITION

The Ritz-Carlton Hotel Company, L.L.C. ("Opposer"), a limited liability company duly organized and existing under the laws of the State of Delaware, having a place of business at 10400 Fernwood Road, Bethesda, Maryland 20817, believes that it will be damaged by the registration of the mark shown in Application Serial No. 76/553029, and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for opposition, Opposer alleges the following:

1. Opposer is the owner of all right, title, and interest in and to various marks containing RITZ, including RITZ, RITZ-CARLTON, THE RITZ-CARLTON CLUB, THE RITZ KIDS, PUTTIN' ON THE RITZ, and THE RITZ-CARLTON LODGE (collectively the "RITZ Marks"), which Opposer uses in connection with various goods and services, including fine art related goods and services such as hosting and sponsoring fine art exhibitions, leisure packages featuring tours of fine art collections, art tour guide books, and the sale of fine art and related goods; hotel, resort, restaurant, cabaret, cocktail lounge, and bar services; recreational

sports services; casino facilities; fund raising services; clothing; and paper goods and printed matter.

2. Opposer's rights in the RITZ Marks have been recognized by the Patent and Trademark Office, which has issued to Opposer various registrations for marks containing RITZ, including the following registrations:

Mark	Registration. No.	Date of Registration
RITZ-CARLTON	1094823	June 27, 1978
RITZ	1535834	April 18, 1989
THE RITZ-CARLTON CLUB	1631978	January 15, 1991
THE RITZ KIDS	1795438	September 28, 1993
THE RITZ-CARLTON & Design	1905234	July 18, 1995
RITZ-CARLTON	2298901	December 7, 1999
THE RITZ-CARLTON & Design	2386118	September 12, 2000
THE RITZ-CARLTON CLUB	2388768	September 19, 2000
PUTTIN' ON THE RITZ	2446217	April 24, 2001
THE RITZ-CARLTON LODGE	2606040	August 6, 2002
RITZ-CARLTON	2615549	September 3, 2002
RITZ	2869095	August 3, 2004
RITZ	2934838	March 22, 2005
PUTTIN' ON THE RITZ	3079520	April 11, 2006

3. Opposer's registrations are valid and subsisting, and Registration Nos. 1094823, 1535834, 1631978, 1795438, 1905234, 2298901, 2386118, and 2388768 are incontestable. These registrations provide conclusive evidence of Opposer's ownership of the RITZ Marks, of the validity of the marks, and of Opposer's exclusive right to use the marks in commerce.

4. Opposer adopted and used marks containing RITZ at least as early as 1927 and has made continuous use of such marks in interstate commerce since then, which is long prior to the filing date of Applicant's application and long prior to any use by Applicant.

5. Opposer's RITZ Marks have been extensively used, advertised, and promoted in interstate commerce in connection with various goods and services, including those listed in

Paragraph 1 above, since long prior to the filing date of Applicant's application or any use by Applicant of the mark it seeks to register.

6. As a result of said extensive use, advertising, and promotion, Opposer's RITZ Marks have become well-known and famous as distinctive indicators of the origin of Opposer's goods and services, and the marks have become valuable symbols of Opposer's goodwill.

7. Notwithstanding Opposer's prior rights in the RITZ Marks, Applicant filed an intent-to-use application with the United States Patent and Trademark Office to register the mark RITZ (Ser. No. 76/553029) for "Art galleries offering original and limited edition fine art, namely, paintings, photographs, sculptures and prints."

8. Upon information and belief, Applicant knew or had reason to know of Opposer's prior rights in the RITZ Marks when Applicant filed its application.

Likelihood of Confusion - §2(d)

9. The mark which Applicant seeks to register is identical to or so closely resembles Opposer's RITZ Marks that the use and registration thereof is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's services and will injure and damage Opposer and the goodwill and reputation symbolized by the RITZ Marks.

10. The services of Applicant are so closely related to the goods and services of Opposer that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's services are those of Opposer or that Applicant is in some way connected with or sponsored by or affiliated with Opposer, all to Opposer's irreparable damage.

11. Likelihood of confusion in this case is enhanced by the fame of Opposer's RITZ Marks and by the fact that consumers associate these marks with goods and services sold, approved, or endorsed by Opposer; moreover, purchasers of Applicant's services are prospective

purchasers of Opposer's goods and services, and vice-versa.

Deception/False Suggestion of Connection - §2(a)

12. Applicant's mark so closely resembles Opposer's marks that it is likely to cause deception in violation of Section 2(a) of the Trademark Act, in that the mark misdescribes the nature or origin of the services, purchasers are likely to believe that the misdescription actually describes the nature or origin of the services, and this is likely to materially alter purchasers' decisions to acquire Applicant's services.

13. Applicant's alleged mark so closely resembles Opposer's RITZ Marks that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, because Applicant's alleged mark points uniquely to Opposer, and purchasers will assume that services offered under Applicant's alleged mark are connected with Opposer.

14. Applicant's mark is deceptive in that it falsely suggests a connection with or approval by the Opposer.

Dilution - §43(c)

15. Opposer's RITZ marks have been widely used and extensively advertised in the United States and, therefore, the marks have become well-known and famous as distinctive symbols of Opposer's goodwill.

16. On information and belief, Applicant intends to use its alleged mark in commerce with the willful intent to trade on Opposer's reputation or to cause dilution of Opposer's famous marks.

17. Opposer's marks became well-known and famous before Applicant filed its application for or made any use of its alleged mark.

18. Applicant's alleged mark will cause dilution of the distinctive quality of

Opposer's marks.

19. Use or registration of Applicant's alleged mark will lessen the capacity of Opposer's famous RITZ Marks to identify and distinguish Opposer's goods and services.

20. Likelihood of confusion, dilution, and deception is enhanced by the fact that the word RITZ is the dominant feature of both Applicant's alleged mark and Opposer's RITZ Marks.

21. Likelihood of confusion, dilution, and deception is enhanced by the fact that the parties' goods and services are sold through the same trade channels to the same classes of prospective purchasers.

22. Applicant's use or registration of RITZ will deprive Opposer of the ability to protect its reputation, persona, and goodwill.

23. Applicant's use or registration of RITZ will tarnish the goodwill symbolized by Opposer's RITZ Marks.

24. Likelihood of tarnishment and damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's services will attribute those defects to Opposer, and this will tarnish Opposer's reputation and goodwill.

25. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark, and registration should be refused.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

THE RITZ-CARLTON HOTEL COMPANY, L.L.C.

Dated: 5/24/06 By: _____

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