

ESTTA Tracking number: **ESTTA33190**

Filing date: **05/16/2005**

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

Proceeding	91164776
Party	Defendant Casey, Dennis M. Casey, Dennis M. 1075-77 Space Park Way Mountain View, CA 94043
Correspondence Address	Dennis M. Casey 1075-77 Space Park Way Mountain View, CA 94043
Submission	Answer
Filer's Name	Jared Robinson Smith
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Date	05/16/2005
Attachments	ANSWER-Casey.pdf (4 pages)

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TRADEMARK
DOCKET NO. 24508

Attorney for Applicant Dennis M. Casey
Opposed Mark: CASEYSTUDIOS - MAKING
MEMORIES, ONE PIXEL AT A TIME.

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

Making Memories Wholesale, Inc. Opposer, v. Dennis M. Casey Applicant.	Opposition No. 91164776 ANSWER TO OPPOSITION
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Comes now Applicant, Dennis M. Casey, and in answer to the Opposition by Opposer, Making Memories Wholesale, Inc., generally denies the allegations of the Opposition, except as to the allegations of paragraph 1, which Applicant admits, except that Applicant's address is now 1622 Belleville Way, Sunnyvale, CA 94087.

I. AFFIRMATIVE DEFENSES

1. Opposer's claims are barred by reason of mootness.
2. Opposer's claims are barred by reason of fair use.
3. Opposer's claims are barred by the doctrine of laches.
4. Opposer's claims are barred by reason of estoppel.
5. Opposer's claims are barred by reason of waiver.
6. Opposer's claims are barred by reason of acquiescence.

7. Opposer's claims are barred by the equitable doctrine of unclean hands.
8. Opposer's claims are barred by statutes of limitations.
9. Opposer's claims are barred on the grounds that the term MAKING MEMORIES is generic.
10. Opposer's claims are barred on the grounds that the term MAKING MEMORIES is descriptive.
11. Opposer has not and will not suffer any damage as a result of Applicant's Mark.
12. Opposer has not suffered and is not likely to suffer any irreparable harm as a result of Applicant's Mark.
13. Opposer's claims are barred by reason of lack of registration of the trademarks claimed by Opposer and/or by reason of invalid or inaccurate registration.
14. Opposer's trademark claims are barred, in whole or in part, by prior use and/or registration.
15. Opposer's claims are barred, in whole or in part, since there is no likelihood of confusion in the market place.
16. Opposer's claims are barred, in whole or in part, since Applicant's actions are not likely to cause injury to Opposer's business, reputation or dilution of the distinctive quality, if any, of Opposer's goods and/or services.
17. Opposer's claims are barred, in whole or in part, since Applicant has made no false or misleading statements or representations of fact regarding its goods and/or services.
18. Opposer's claims are barred, in whole or in part, since Applicant has not engaged in any deceptive conduct.
19. Opposer's claims are barred, in whole or in part, since there is no material confusion or mistake or likelihood of material confusion or mistake.
20. Opposer's claims are barred by reason of abandonment of the trademarks at issue.
21. Opposer's claims are barred by reason of all acts of Applicant are protected by

the Constitutional protection of free speech.

WHEREFORE, Applicant requests that the Opposition be rejected and that Application Serial No. 78/371,032 be granted registration and registration be issued to Applicant for the mark CASEYSTUDIOS – MAKING MEMORIES, ONE PIXEL AT A TIME.

Dated: May 16, 2005

LAW OFFICE OF JARED ROBINSON SMITH

//s//
Jared Robinson Smith, Esq. (Cal. Bar #130343)
Attorney for Applicant
Dennis M. Casey

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PROOF OF SERVICE

I am over the age of 18 years, employed in the county of Marin, and not a party to the within action; my business address is 1626 Merritt Drive, Novato, CA 94949.

On May 16, 2005, I caused to be served the within:

ANSWER TO OPPOSITION

on the parties in said action by Facsimile and U.S. Mail by placing a copy in a sealed envelope, postage prepaid and depositing in a US Mailbox addressed as follows:

Peter M. de Jonge
THORPE NORTH & WESTERN, LLP
P.O. Box 1219
Sandy, Utah 84091-1219
Tel: (801) 566-6633
Fax: (801) 566-0750

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 16, 2005, at Novato, California.

_____/s/_____
Jared R. Smith