

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

CHATEAU DIANA, LLC)
)
 Opposer,)
)
 v.) Opposition No. 91165316
)
 NATIONAL DISTRIUBUTING)
 COMPANY, INC.)
)
 Applicant.)

ANSWER TO NOTICE OF OPPOSITION

Now comes Applicant, National Distributing Company Inc. (“Applicant”), by and through the undersigned counsel, and for Applicant’s response to the allegations in Opposer Chateau Diana, LLC’s (“Opposer”) Notice of Opposition states as follows:

1. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 1 at this time, and therefore they are denied.
2. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 2 at this time, and therefore they are denied.
3. The allegation of paragraph 3 is denied as untrue.
4. The allegation of paragraph 4 is denied as untrue.
5. Applicant neither admits nor denies the allegations of paragraph 5 and avers that the any alleged U.S. Trademark application speaks for itself. To the extent a response is required the allegation is denied.
6. Applicant neither admits nor denies the allegations of paragraph 6 and avers that any official action issued by the U.S. Patent and Trademark Office speaks for itself. To the extent a response is required the allegation is denied.



07-01-2005

7. The allegation of paragraph 7 is admitted.
8. The allegation of paragraph 8 is denied as untrue.
9. The allegation of paragraph 9 is admitted.
10. The allegation of paragraph 10 is denied as untrue.
11. The allegation of paragraph 11 is denied as untrue.
12. The allegation of paragraph 12 is denied as untrue.

AFFIRMATIVE DEFENSES AND GENERAL DENIAL

1. To the extent any of Opposer's allegations are not specifically address herein they are denied.

2. Upon information and belief, Applicant has superior rights to the BLUE MONKEY and BLUE MONKEY and Design marks.

3. Upon information and belief, Opposer's U.S. Trademark Application Serial No. 76/599,634 is false as Opposer has no ownership interest in the subject matter of the application.

4. Upon information and belief, any use of the BLUE MONKEY and the BLUE MONKEY and Design marks made by Opposer inured to the benefit of Applicant.

5. Opposer's claims are barred in whole or in part by laches, estoppel and/or waiver.

6. Opposer's claims are barred in whole or in part for failure to state a claim upon which relief can be granted.

WHEREFORE, Applicant prays for relief as follows:

- A. That Opposer's Opposition be dismissed with prejudice.

B. That Notices of Allowance issue for Applicant's trademark applications, Serial Nos. 78/429,938 and 78/429,932.

WHEREFORE, Applicant, National Distributing Company, Inc., requests that registration on Serial Nos. 78/429,938 and 78/429,932 proceed and the opposition should be denied and dismissed in its entirety.

Respectfully submitted:

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By: 

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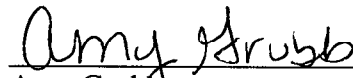
Attorneys for Applicant

Date: June 29, 2005

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that National Distributing Company, Inc.'s **Answer and Affirmative Defenses To Opposer's Notice of Opposition** is being deposited on June 29, 2005 with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to UNITED STATES PATENT AND TRADEMARK OFFICE Trademark Trial and Appeal Board P.O. Box 1451 Alexandria, VA 22313-1451.

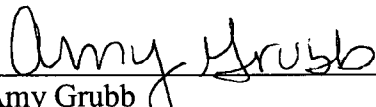
Dated: June 29, 2005


Amy Grubb

CERTIFICATE OF SERVICE

I hereby certify that National Distributing Company Inc.'s **Answer and Affirmative Defenses To Opposer's Notice of Opposition** is being deposited on the date shown below with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Gary D. Krugman, Sughrue Mion, PLLC 2100 Pennsylvania Avenue, N.W. Washington, D.C. 20037-3213

Dated: June 29, 2005



Amy Grubb