

ESTTA Tracking number: **ESTTA57385**

Filing date: **12/13/2005**

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

Proceeding	91167280
Party	Defendant Brown, Don Brown, Don PO Box 22459 Knoxville, TN 379330459
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Submission	Answer
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Date	12/13/2005
Attachments	59540.00.to pto.2005.12.13.answer.pdf (4 pages)

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

SPENCER GIFTS, LLC)
)
 Opposer,)
 v.)
)
 DON BROWN)
)
 Applicant.)

OPPOSITION NO. 91167280

United States patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION

In response to the Notice of Opposition filed by Opposer on October 25, 2005, and mailed to the Applicant by the Board on November 3, 2005 Applicant answers as follows:

With regard to the preamble paragraphs, Applicant is without knowledge or information sufficient to form a belief as to the truth of the averment that Opposer is a legal entity of any kind. Applicant denies that Opposer will be damaged in any manner by issuance of the registration of the mark of the instant application to Applicant.

With respect to Opposer's numbered paragraphs, Applicant answers as follows:

1. Applicant admits that it seeks to register the mark of U.S. Application Serial No. 78/472,424 for the goods set forth in the application.
2. Applicant admits that it filed its application on August 24, 2004, and that it has used the mark since at least as early as July 31, 2004.
3. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 3 and therefore denies the same.
4. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 4 and therefore denies the same.
5. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 5 and therefore denies the same.
6. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 6 and therefore denies the same.
7. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 7 and therefore denies the same.

8. Applicant is without sufficient information to form a belief as to truth of the averments of Paragraph 8 and therefore denies the same.
9. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 9 and therefore denies the same.
10. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 10 and therefore denies the same.
11. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 11 and therefore denies the same.
12. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 12 and therefore denies the same.
13. Denied.
14. Denied.
15. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 15 and therefore denies the same.
16. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 16 and therefore denies the same.
17. Applicant is without sufficient information to form a belief as to the truth of the averments of paragraph 17 and therefore denies the same.
18. Denied.
19. Denied.
20. Denied.
21. Denied.
22. It is denied that issuance of a registration to Applicant would be a source of damage or injury to Opposer.

All other averments in the notice of opposition not specifically admitted or denied are hereby denied.

AFFIRMATIVE AND OTHER DEFENSES

23. There is no likelihood of confusion between Applicant's mark and any mark or name previously used by Opposer.
24. The Opposition is barred by laches, acquiescence, estoppel, unclean hands, naked license and/or license.
25. Opposer does not have standing.

WHEREFORE, Applicant respectfully requests that this Opposition proceeding be DISMISSED, with prejudice and that its registration issue forthwith.

Please direct all future correspondence to:

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Respectfully submitted,

LUEDEKA, NEELY & GRAHAM, P.C.

By: 

Robert O. Fox
Registration No. 34,165
Attorneys for Applicant

Date: December 13, 2005

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been deposited in the U.S. mail, first class, postage prepaid on December 13, 2005, addressed to:

Roberta Jacobs-Meadway, Esq.
Ballard Spahr Andrews & Ingersoll, LLP
1735 Market St. - 51st Fl.
Philadelphia, PA 19103-7599



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