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

Proceeding	91169698
Party	Defendant Discovery Communications, Inc. Discovery Communications, Inc. One Discovery Place Silver Spring, MD 20910
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

LOU REDA PRODUCTIONS, INC. :
:
Opposer :
:
v. : Opposition No. 91169698
:
DISCOVERY COMMUNICATIONS, INC. :
:
Applicant :

ANSWER TO NOTICE OF OPPOSITION

Applicant Discovery Communications, Inc. hereby answers the Notice of Opposition in the above-referenced proceeding as follows:

1. Applicant admits that it has applied to register the mark MILITARY CHANNEL under Serial Numbers 76/977380, in International Class 38 in connection with television broadcasting services, and in International Class 41 in connection with entertainment services in the nature of television programming but denies the remaining allegations contained in Paragraph 1.

2. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 2 and therefore denies the allegations.

3. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 3 and therefore denies the allegations.

4. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 4 and therefore denies the allegations.

5. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 5 and therefore denies the allegations.

6. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 6 and therefore denies the allegations.

7. Applicant admits that it commenced use of its MILITARY CHANNEL mark on a nationwide basis at least as early as November 30, 2004, but denies the remaining allegations contained in Paragraph 7.

8. Applicant admits that it uses its MILITARY CHANNEL mark on a nationwide basis in connection with its entertainment and broadcasting services, but denies the remaining allegations contained in Paragraph 8.

9. Paragraph 9 contains conclusions of law for which no response is required. To the extent a response is required, Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 9 and therefore denies the allegation. Moreover, to the extent there is any likelihood of confusion, Opposer would not be entitled to relief as Opposer does not have prior rights in the mark at issue.

10. Paragraph 10 contains conclusions of law for which no response is required. To the extent a response is required, Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 10 and therefore denies the allegation. Moreover, to the extent there is any likelihood of confusion, Opposer would not be entitled to relief as Opposer does not have prior rights in the mark at issue.

11. Paragraph 11 contains conclusions of law for which no response is required. To the extent a response is required Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 11 and therefore denies the allegation.

Moreover, to the extent Applicant's mark is in any way descriptive, Opposer would not be entitled to relief as Opposer's mark acquired distinctiveness long prior to any priority date that Opposer may be able to assert.

12. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 12 and therefore denies the allegations.

AFFIRMATIVE DEFENSES

1. The opposition should be dismissed because Opposer has failed to state a claim upon which relief may be granted.

2. The opposition should be dismissed as Opposer has failed to allege any facts that would support a claim of priority in Opposer's alleged mark.

3. The opposition should be dismissed because Opposer's claims are barred by the doctrine of acquiescence in that Opposer knew or had reason to know of Applicant's prior use of the mark at issue in this proceeding.

4. The opposition should be dismissed because Opposer's claims are barred by the doctrine of estoppel.

5. The opposition should be dismissed because Opposer's claims are barred by the doctrine of laches.

6. The opposition should be dismissed because Opposer's claims are barred by the doctrine of waiver.

7. The opposition should be dismissed because Opposer lacks standing.

8. The opposition should be dismissed because Opposer never used the alleged mark and never established any basis for claiming that the alleged mark had acquired distinctiveness.

9. The opposition should be dismissed because Opposer has abandoned any rights in its alleged mark through failure to use the mark in commerce in connection with the services identified in its applications.

10. The opposition should be dismissed because Opposer's claims are barred by the doctrine of unclean hands in that Opposer has engaged in inequitable conduct directly related to the subject matter of this litigation. On information and belief, when Opposer filed its trademark application, subsequent to Applicant's effective filing date, Opposer represented under penalty of perjury in its application that it was not aware of any mark that so resembled its alleged mark as to create a likelihood of confusion. Such representation was false at the time it was made, Opposer knew it was false, and it was made with an intent to deceive.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed and that the Application Serial No. 76/977380, for the mark MILITARY CHANNEL, proceed to registration.

Respectfully submitted,



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April 21, 2006

TECH/413209.1

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer to Notice of Opposition was sent to Counsel for Opposer: Sanford J. Piltch, Esq., 1132 Hamilton Street, Suite 201, Allentown, PA 18104, via US Mail first class postage prepaid, this 20th day of April, 2006.


