

ESTTA Tracking number: **ESTTA81443**

Filing date: **05/18/2006**

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

Proceeding	91169824
Party	Defendant Toto U.S.A., Inc. Toto U.S.A., Inc. 1155 Southern Road Morrow, GA 30260
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Submission	Answer
Filer's Name	Christopher J. Chaudoir
Filer's e-mail	LA-TMDocketing@pillsburylaw.com
Signature	/cjc/
Date	05/18/2006
Attachments	ANSWER.PDF (4 pages)(318656 bytes)

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

In re Application of:

TOTO U.S.A., Inc.
Mark: DORIAN in International Class 11
Application No.: 76/625,678
Filing Date: December 8, 2003
Published for Opposition: September 20, 2005

E.I. DU PONT DE NEMOURS AND
COMPANY,

Opposer,

v.

Opposition No.: 91169824

TOTO U.S.A., INC.

Applicant.

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

ANSWER TO OPPOSITION

Applicant, Toto U.S.A., Inc. (“Applicant”), responds to the Notice of Opposition as filed by Opposer, E.I. du Pont de Nemours and Company (“Opposer”) as follows:

1. Applicant lacks sufficient knowledge and information upon which to formulate a belief as to the truth or falsity of the allegations set forth in Paragraph 1 of the Notice of Opposition, and therefore denies each and every allegation set forth therein.

2. Applicant lacks sufficient knowledge and information upon which to formulate a belief as to the truth or falsity of the allegations set forth in Paragraph 2 of the Notice of Opposition, and therefore denies each and every allegation set forth therein.

3. Applicant lacks sufficient knowledge and information upon which to formulate a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Notice of Opposition, and therefore denies each and every allegation set forth therein.

4. Applicant lacks sufficient knowledge and information upon which to formulate a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Notice of Opposition, and therefore denies each and every allegation set forth therein.

5. Applicant admits that it has sought to register, on an intent to use basis, the mark DORIAN. Except as expressly admitted, Applicant denies the allegations set forth in Paragraph 5 of the Notice of Opposition.

6. Applicant denies each and every allegation set forth in Paragraph 6 of the Notice of Opposition.

7. Applicant denies each and every allegation set forth in Paragraph 7 of the Notice of Opposition.

8. Applicant denies each and every allegation set forth in Paragraph 8 of the Notice of Opposition.

9. Applicant denies each and every allegation set forth in Paragraph 9 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

10. First Affirmative Defense. Applicant alleges that the Notice of Opposition fails to state a claim of opposition against Applicant's mark.

11. Second Affirmative Defense. Applicant alleges that Opposer has unreasonably delayed in asserting its alleged rights and is barred by the doctrine of laches from pursuing this opposition.

12. Third Affirmative Defense. Applicant alleges that Opposer's mark, goods and channels of trade are so far removed from Applicant's that there can be no likelihood of confusion or deception of the public as a matter of law.

13. Fourth Affirmative Defense. Opposer's purported trademarks are generic or descriptive without secondary meaning.

14. Fifth Affirmative Defense. There is no likelihood of confusion between Applicant's trademark and Opposer's marks.

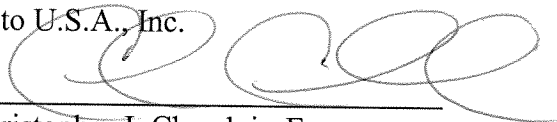
WHEREFORE, Applicant respectfully prays for a decision by the Trademark Trial and Appeal Board in its favor that Opposition No. 91169824 filed against it be denied.

Dated: May 18, 2006

Respectfully submitted,

Toto U.S.A., Inc.

By:



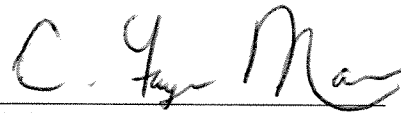
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CERTIFICATE OF SERVICE

I, C. Faye Macon, hereby certify that on this 18th day of May, 2006, a true copy of the foregoing **ANSWER TO OPPOSITION** was served on Opposer's counsel of record by depositing a true and correct copy thereof in the United States mail in a sealed envelope with postage thereon fully prepaid, addressed as follows:

Dickerson M. Downing, Esq.
Morgan & Finnegan, L.L.P.
3 World Financial Center
New York, NY 10281

Executed: May 18, 2006

A handwritten signature in black ink, appearing to read "C. Faye Macon", written over a horizontal line.

C. Faye Macon