

ESTTA Tracking number: **ESTTA103366**

Filing date: **10/10/2006**

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

Proceeding	91173182
Party	Defendant Michele M. Hedges Michele M. Hedges 4762 Redstart Street Houston, TX 770354908
Correspondence Address	HEDGES, MICHELE M. 4762 REDSTART ST HOUSTON, TX 77035-4908
Submission	Answer
Filer's Name	Christopher Keirs
Filer's e-mail	ckeirs@counselip.com
Signature	/christopher keirs/
Date	10/10/2006
Attachments	Answer.pdf (4 pages)(360245 bytes)

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

Color Image Apparel, Inc.,

Opposition No.: 91173182

Opposer,

- against -

ANSWER

Michele M. Hedges,

October 10, 2006

Applicant.

Assistant Commissioner of Trademarks
BOX TTAB — NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

APPLICANT'S ANSWER TO OPPOSER'S NOTICE OF OPPOSITION

In response to the Notice of Opposition issued by the Board on September 29, 2006, Michele M. Hedges ("Applicant") hereby responds to Color Image Apparel, Inc. ("Opposer") as follows:

Applicant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in Paragraph 1 of the Notice of Opposition, and therefore denies same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in Paragraph 2 of the Notice of Opposition, and therefore denies same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in Paragraph 3 of the Notice of Opposition, and therefore denies same.

4. Applicant denies the allegations of Paragraph 4 of the Notice of Opposition.
5. Applicant denies the allegations of Paragraph 5 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

In further answer to the Notice of Opposition, Applicant asserts that:

FIRST AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining the opposition.

SECOND AFFIRMATIVE DEFENSE

The term "bella" is highly diluted as a trademark formative in International Class 025, and hence weak, and Opposer's purported rights extend no further than to the specific goods upon which Opposer alleges it has used its asserted "bella" marks, none of which are the same as or confusingly similar to Applicant's goods.

THIRD AFFIRMATIVE DEFENSE

Applicant's use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

FOURTH AFFIRMATIVE DEFENSE

Applicant's mark in its entirety is sufficiently distinctively different from Opposer's marks to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's goods.

FIFTH AFFIRMATIVE DEFENSE

Applicant's mark, when used on Applicant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of

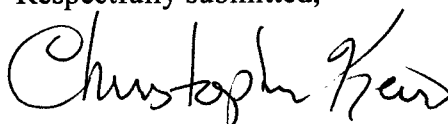
Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods by Opposer.

RELIEF REQUESTED

WHEREFORE, Applicant respectfully requests that this opposition proceeding be dismissed, with prejudice.

Dated: October 10, 2006

Respectfully submitted,



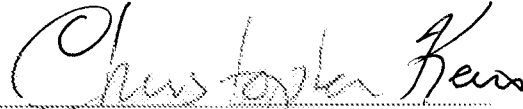
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CERTIFICATE OF SERVICE

I hereby certify that this ANSWER is being served by mail by depositing a copy of the same with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Richard P. Sybert, Gordon & Rees LLP, 101 West Broadway, Suite 1600, San Diego, California 92101-8217 on the date shown below.

Date: 10 October 2006

By:


Christopher D. Keirs