

ESTTA Tracking number: **ESTTA152397**

Filing date: **07/23/2007**

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

Proceeding	91177828
Party	Defendant Meagher, Todd Meagher, Todd 2101 Legacy Court Keller, TX 76248
Correspondence Address	MEAGHER, TODD 2101 LEGACY CT KELLER, TX 76248-8449 toddme@gher.com
Submission	Answer
Filer's Name	Erik M. Pelton
Filer's e-mail	emp@tm4smallbiz.com
Signature	/ErikMPelton/
Date	07/23/2007
Attachments	91177828 MYSTORE - Answer to Opposition FINAL.pdf (16 pages)(227188 bytes)

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

SNOCAP, INC.,)
Opposer,) Opposition No. 91177828
v.) Application. Serial No. 78853866
Todd Meagher.) Mark: MYSTORE.COM
Applicant.)

ANSWER TO NOTICE OF OPPOSITION

The following is the Answer of Todd Meagher (hereinafter “Applicant”), owner of Federal Trademark Application Serial No. 78853866 for the mark MYSTORE.COM, by and through Counsel, Erik M. Pelton & Associates, PLLC, to the Notice of Opposition mailed June 13, 2007, on behalf of SNOCAP, INC. (hereinafter “Opposer”), and assigned Opposition No. 91177828.

Applicant hereby responds, solely for the purpose of this proceeding, to each of the grounds set forth in the Notice of Opposition, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition.
3. Admitted to the extent that the records of the U.S. Patent and Trademark Office substantiate the facts claimed.
4. Denied. Applicant’s mark is not descriptive.
5. Denied. Applicant’s mark is not generic.
6. Denied. Applicant’s mark is not descriptive.

7. Denied. Applicant's mark is used as a source identifier for Applicant's services.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Notice of Opposition since webpages may change at any time and Opposer has not referenced any specific time. yourStore, LLC is affiliated with Applicant and Applicant Todd Meagher is an employee and officer of the yourStore, LLC limited liability company.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Notice of Opposition. The domain name addresses provided by Opposer are not evidence of any descriptive uses of Applicant's mark. Furthermore, several of the domain name addresses provided appear to be for sites based outside of the United States.

10. Denied. Opposer's allegation is speculative and not based on any facts.

11. Denied. Opposer's allegation is speculative and not based on any facts.

12. Denied. Opposer's allegation is speculative and not based on any facts.

13. This paragraph contains a legal conclusion and does not call for an admission or denial.

FURTHERMORE, Applicant sets forth the following in support of its defense:

14. Trademarks registered on the Principal Register of the United States Patent and Trademark Office which contain the terms MY and STORE, without any disclaimer or claim of acquired distinctiveness regarding both of those terms, include:

Registration No.	Mark
2809162	MYSCHOOLBOOKSTORE

2555965	MY BABY STORE
2628975	MYUNIVERSITYSTORE.COM
2598869	MYBENEFITSTORE
2773847	MYLOCALSTORE
2413861	MY LOCAL HARDWARE STORE!
2531343	MYBIZWEBSTORE.COM
2663703	MY CORPORATE STORE

15. Trademarks formerly registered on the Principal Register of the United States Patent and Trademark Office which contain the terms MY and STORE, without a disclaimer or claim of acquired distinctiveness of both terms, include:

Registration No.	Mark
1253266	MY STORE
1641386	MY STORE
2561645	MY STORE

16. Applicant's related entity, yourStore, LLC, is owner of U.S. Trademark Registration No. 3198478 for the mark YOURSTORE.COM & Design.

17. Applicant's related entity, yourStore, LLC, is owner of U.S. Trademark Registration No. 3177091 for the standard character mark YOURSTORE.COM.

18. Opposer is barred from relief by the Doctrine of Latches.

19. Opposer is barred from relief by the Doctrine of Estoppel.

20. Opposer is barred from relief by the Doctrine of Acquiescence.

21. Opposer's claims are barred by the doctrine of unclean hands or other applicable equitable principles.

22. Opposer does not have standing.
23. The Notice of Opposition fails to state a claim upon which relief may be granted.

Applicant hereby appoints Erik M. Pelton, a member of the Bar of the State of New Jersey, and Christopher Shiplett, a member of the Bar of the Commonwealth of Virginia, at the firm of

Erik M. Pelton & Associates, PLLC
PO Box 100637
Arlington, Virginia 22210
TEL: (703) 525-8009
FAX: (703) 525-8089

to act as attorneys in the matter of the opposition identified above, to prosecute said opposition, to transact all business in the Patent and Trademark Office, and in the United States courts connected with the opposition, to sign its name to all papers which are hereinafter to be filed in connection therewith, and to receive all communications relating to the same.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board deny the Opposition and permit registration of Applicant's proposed mark in Application Serial Number 78853866 in the United States Patent and Trademark Office.

A duplicate copy of this Answer to Notice of Opposition has been sent via First Class Mail to counsel for Opposer on July 23, 2007.

Respectfully Submitted,
Todd Meagher (Applicant)

By: /ErikMPelton/
Erik M. Pelton, Esq.

Erik M. Pelton & Associates, PLLC
PO Box 100637
Arlington, Virginia 22210
TEL: (703) 525-8009
FAX: (703) 525-8089

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Answer to Notice of Opposition was deposited as First Class mail with the United States Postal Service on July 23, 2007, to Counsel for Opposer at the following address:

Martin R. Greenstein
TechMark a Law Corporation
4820 Harwood Road, 2nd Floor
San Jose, CA 95124-5273

By: _____/ErikMPelton/
Erik M. Pelton, Esq.

Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,809,162

Registered Jan. 27, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

myschoolbookstore

J. F. FLANNERY COMPANY, INC. (CALIFORNIA CORPORATION)
13123 AEROSPACE DRIVE
VICTORVILLE, CA 92394

FIRST USE 7-13-2003; IN COMMERCE 7-13-2003.

SN 76-384,107, FILED 3-18-2002.

FOR: ONLINE RETAIL STORE SERVICES IN THE
FIELD OF TEXTBOOKS, NOVELS, DICTIONARIES,
AND BOOK COVERS TO SCHOOLS AND STUDENTS,
IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

MARY ROSSMAN, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,555,965

Registered Apr. 2, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

MY BABY STORE

**MY BABY STORE, LLC (SOUTH CAROLINA
LIMITED LIABILITY CORPORATION)
638 COLEMAN BLVD.
MT. PLEASANT, SC 29464**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "BABY STORE", APART FROM
THE MARK AS SHOWN.**

**FOR: RETAIL FURNITURE STORE SERVICES, IN
CLASS 35 (U.S. CLS. 100, 101 AND 102).**

SER. NO. 76-294,716, FILED 8-6-2001.

FIRST USE 2-14-1997; IN COMMERCE 8-0-1997.

ESTHER BELENKER, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,628,975

Registered Oct. 1, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

MYUNIVERSITYSTORE.COM

**DESIGNS IN STITCH, INC. (TEXAS CORPORATION)
P.O. BOX 487
ADDISON, TX 75001**

FOR: ON-LINE RETAIL STORE SERVICES FEATURING UNIVERSITY EMBROIDERED MERCHANDISE, SCREEN-PRINT MERCHANDISE

AND PROMOTIONAL PRODUCTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-4-2000; IN COMMERCE 9-19-2001.

SN 76-066,153, FILED 6-8-2000.

MICHAEL BAIRD, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,598,869

Registered July 23, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

MYBENEFITSTORE

**RKM PARTNERS IN TRUST, INC. (CALIFORNIA
CORPORATION)
STEVE HUBERT
2445 FIFTH AVENUE, SUITE 300
SAN DIEGO, CA 92101**

FIRST USE 1-5-2000; IN COMMERCE 1-5-2000.

SN 76-045,048, FILED 5-11-2000.

**FOR: BUSINESS MARKETING CONSULTING
SERVICES AND BUSINESS CONSULTATION SER-
VICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).**

TONI HICKEY, EXAMINING ATTORNEY

Int. Cls.: 25, 35, and 42

Prior U.S. Cls.: 22, 39, 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,773,847

Registered Oct. 14, 2003

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

MYLOCALSTORE

IDFUSION SOFTWARE INC. (CANADA CORPORATION)
UNIT 115 - 383 PROVENCHER BLVD.
WINNIPEG, MANITOBA, CANADA R2H 0G9

FOR: CLOTHING, NAMELY T-SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-6-2001; IN COMMERCE 11-6-2001.

FOR: FRANCHISING, NAMELY, OFFERING TECHNICAL ASSISTANCE IN THE ESTABLISHING AND/OR OPERATION OF TRANSACTION PROCESSING SERVICES, ADVERTISING SERVICES AND CATALOGING FOR RETAILERS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 11-6-2001; IN COMMERCE 11-6-2001.

FOR: COMPUTER SERVICES, NAMELY PROVIDING SEARCH ENGINES FOR OBTAINING A LISTING OF SERVICES AND PRODUCTS ON A GLOBAL COMPUTER NETWORK, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 11-6-2001; IN COMMERCE 11-6-2001.

PRIORITY CLAIMED UNDER SEC. 44(D) ON CANADA APPLICATION NO. 1049328, FILED 3-2-2000, DATED 0-0-0000.

SN 76-007,096, FILED 3-22-2000.

PRISCILLA MILTON, EXAMINING ATTORNEY

Prior U.S. Cl.: 200

United States Patent and Trademark Office

Reg. No. 2,413,861

Registered Dec. 19, 2000

**COLLECTIVE MEMBERSHIP
PRINCIPAL REGISTER**

MY LOCAL HARDWARE STORE!

MINNESOTA DAKOTAS RETAIL HARDWARE AS-
SOCIATION, THE (MINNESOTA CORPORATION)
23 NINTH AVENUE
HOPKINS, MN 55343

FOR: INDICATING MEMBERSHIP IN AN ORGA-
NIZATION OF RETAIL HARDWARE STORES, IN
CLASS 200 (U.S. CL. 200).

FIRST USE 5-11-1998; IN COMMERCE 5-11-1998.
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT
TO USE "LOCAL HARDWARE STORE", APART
FROM THE MARK AS SHOWN.

SER. NO. 75-802,744, FILED 9-17-1999.

STEVEN BERK, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,531,343

Registered Jan. 22, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

MYBIZWEBSTORE.COM

**MPK, INC. (MARYLAND CORPORATION)
9693A GERWIG LANE
COLUMBIA, MD 21046**

FOR: ON-LINE RETAIL STORE SERVICES FEATURING ARTS AND CRAFTS SUPPLIES; LAWN AND GARDEN PRODUCTS; LIQUOR; MEDICAL SUPPLIES; OFFICE SUPPLIES; SHOES; CLOTHING; COMPUTERS; FLOWERS; FORMAL WEAR; FURNITURE; JEWELRY; SPORTING GOODS; BEAUTY

SALON PRODUCTS; AND DISSEMINATION OF ADVERTISING FOR OTHERS VIA AN ON-LINE ELECTRONIC COMMUNICATIONS NETWORK, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 9-30-1999; IN COMMERCE 9-30-1999.

SER. NO. 75-917,300, FILED 2-15-2000.

CAITLIN RILEY, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,663,703

Registered Dec. 17, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

MY CORPORATE STORE

DESIGNS IN STITCH, INC. (TEXAS CORPORATION)
17817 DAVENPORT, SUITE 115
DALLAS, TX 75252

FOR: ON-LINE RETAIL STORE SERVICES FEATURING CORPORATE EMBROIDERED MERCHANDISE, SCREEN-PRINT MERCHANDISE AND PROMOTIONAL PRODUCTS , IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 11-8-2000; IN COMMERCE 5-8-2001.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CORPORATE STORE", APART FROM THE MARK AS SHOWN.

SN 75-791,807, FILED 9-3-1999.

KARAN CHHINA, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cl.: 101

United States Patent and Trademark Office

Reg. No. 1,253,266

Registered Oct. 4, 1983

SERVICE MARK
Principal Register

MY STORE

QuikTrip Corporation (Oklahoma corporation)
901 N. Mingo Rd.
Tulsa, Okla. 74116

For: RETAIL FOOD STORE SERVICES, in
CLASS 42 (U.S. Cl. 101).

First use Jan. 6, 1982; in commerce Jan. 6, 1982.

No claim is made to the exclusive right to use the
word "Store", apart from the mark as shown.

Ser. No. 355,824, filed Mar. 22, 1982.

JEFFREY LEE GERTLER, Examining Attorney

Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office **Reg. No. 1,641,386**
Registered Apr. 16, 1991

**TRADEMARK
PRINCIPAL REGISTER**

MY STORE

LILLIAN VERNON CORPORATION (DELA-
WARE CORPORATION)
510 SOUTH FULTON AVENUE
MOUNT VERNON, NY 10550

FOR: CHILDREN'S CARDBOARD BOOTH
FOR SELLING PLAY FOOD AND BEVER-
AGES, IN CLASS 28 (U.S. CL. 22).

FIRST USE 4-27-1990; IN COMMERCE
4-27-1990.

SER. NO. 74-063,873, FILED 5-29-1990.

BARBARA A. GOLD, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,561,645

Registered Apr. 16, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

MY STORE

**SHOPPINGMADEEASY.COM, INC. (NEBRASKA
CORPORATION)
9902 S. 148TH STREET
OMAHA, NE 68138**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "STORE", APART FROM THE
MARK AS SHOWN.**

**FOR: COMPUTERIZED ON-LINE ORDERING
SERVICES IN THE FIELD OF GROCERIES, IN
CLASS 35 (U.S. CLS. 100, 101 AND 102).**

SER. NO. 76-234,408, FILED 4-2-2001.

FIRST USE 2-9-2001; IN COMMERCE 2-9-2001.

LESLIE RICHARDS, EXAMINING ATTORNEY