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

Proceeding	91178055
Party	Defendant Lincoln Partners LLC
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Attachments	ANSWER -- Notice of Opposition 91178055.pdf ( 6 pages )(156605 bytes )

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

Lincoln National Corporation,  
Opposer,

v.

Lincoln Partners LLC,  
Applicant.

Opposition No. 91178055  
Serial No. 78762188

ANSWER

Applicant Lincoln Partners LLC (“LP”), by its undersigned attorneys, hereby answers the allegations set forth in the Notice of Opposition as follows:

LP admits that Serial No. 78/762,188 is its application, that it was filed on November 29, 2005 and published for opposition in the Official Gazette on February 27, 2007. LP denies that Opposer will be damaged by registration of the mark shown in Serial No. 78/762,188. LP lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the first unnumbered paragraph and, on that basis, denies them.

1. LP lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1, and on that basis, denies them.

2. LP admits the allegations in Paragraph 2.

3. LP lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3, and, on that basis, denies them.

4. LP admits that Exhibit A to the Notice of Opposition sets forth a list of registrations and applications purportedly owned by Opposer. LP lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4, and, on that basis, denies them.

5. LP lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5, and, on that basis, denies them.

6. LP lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 and, on that basis, denies them.

7. LP lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7, and, on that basis, denies them.

8. LP admits that it filed Application Serial No. 78/762188 to register the mark LINCOLN INTERNATIONAL & DESIGN for use in connection with “investment banking services and corporate merger and acquisition advisory services” in International Class 36, and that during the course of prosecution it amended the identification of services in its application in conformance with the Examiner’s requirements, so that the services are identified in the application as published as “business merger and acquisition consultation” in International Class 35 and “investment banking services” in International Class 36. LP denies any remaining allegations in Paragraph 8.

9. LP lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9, and, on that basis, denies them.

10. LP admits that the mark shown in Application Ser. No. 78/762188 includes the term LINCOLN. Further answering, LP states that it has used the term LINCOLN as part of its trade name LINCOLN PARTNERS, in connection with the services set forth in Application Ser. No. 78/762188, since at least April, 1996. LP admits that the term LINCOLN is an element of the marks shown in Exhibit A to the Notice of Opposition. LP denies the remaining allegations in Paragraph 10.

11. LP denies the allegations in Paragraph 11.

12. LP lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12, and, on that basis, denies them.

13. LP denies the allegations in Paragraph 13.

14. LP admits that it does not have Opposer's consent to use of and application for registration of its mark LINCOLN INTERNATIONAL & DESIGN as shown in Application Ser. No. 78/762188. Further answering, LP states that at no time did it seek Opposer's consent to use of and application for registration of its mark LINCOLN INTERNATIONAL & DESIGN as shown in Application Ser. No. 78/762188. Further answering, LP denies that it had or has any obligation to seek such consent.

15. LP admits that registration of the mark LINCOLN INTERNATIONAL & DESIGN as shown in Application Serial No. 78/762188 would provide LP with *prima facie* exclusive rights therein. LP denies all remaining allegations in Paragraph 15.

16. LP denies that its use of LINCOLN INTERNATIONAL & DESIGN as shown in Application Serial No. 78/762188 for the services set forth in Application Serial No. 78/762188 interferes with Opposer's rights, or is likely to cause confusion, mistake or deception with any of the marks identified by Opposer in the Notice of Opposition as the Lincoln Family of Marks. LP lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 16, and, on that basis, denies them.

17. Paragraph 17 of the Notice of Opposition constitutes Opposer's appointment of counsel, and requires no response from LP.

In response to Opposer's request for relief, LP denies that Opposer is entitled to any relief whatsoever, either as requested in the Notice for Opposition or otherwise. LP further denies each and every allegation in the Notice of Opposition to which LP has not specifically responded.

## **AFFIRMATIVE DEFENSES**

LP does not assume the burden of proof with respect to the defenses set forth below where the substantive law provides otherwise. As separate and distinct affirmative defenses to the Opposition, LP alleges as follows:

### **FIRST AFFIRMATIVE DEFENSE**

The Notice of Opposition fails to state grounds upon which relief can be granted.

### **SECOND AFFIRMATIVE DEFENSE**

Opposer is not entitled to the relief sought because there is no likelihood of confusion between LP's mark and Opposer's marks.

### **THIRD AFFIRMATIVE DEFENSE**

The services set forth in the registrations and applications listed in Exhibit A to the Notice of Opposition travel through different channels of trade and are sold to different customers than the services set forth in Application Ser. No. 78/762188. Specifically, Applicant does not engage in insurance agency services, underwrite life insurance, annuity plans or reinsurance, offer financial planning and investment advisory services, manage institutional investments, offer 401(k) plans, offer retirement services, administer pension plans and mutual funds, or distribute annuities and mutual funds and Opposer does not offer business merger and acquisition consultation services or investment banking services. The purchasers of Applicant's and Opposer's respective services are not likely to confuse the respective sources of those services.

### **FOURTH AFFIRMATIVE DEFENSE**

The Opposition is barred, in whole or in part, by the doctrines of laches and acquiescence.

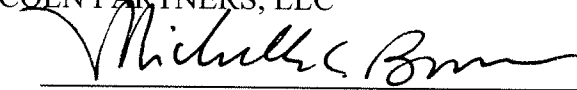
**FIFTH AFFIRMATIVE DEFENSE**

Opposer's claim for relief is barred, in whole or in part, by the doctrines of estoppel and waiver.

Date: August 6, 2007

Respectfully submitted,  
LINCOLN PARTNERS, LLC

By:



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**CERTIFICATE OF SERVICE**

I, Michelle C. Burke, hereby certify that a copy of the foregoing ANSWER was filed electronically and sent by first-class mail and e-mail, this 6th day of August, 2007, postage prepaid, to the following:

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