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

Proceeding	91178333
Party	Defendant The House On F Street, LLC
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Date	08/20/2007
Attachments	Answer.pdf ( 7 pages )(157933 bytes )

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

Spy Optic, Inc.,	)		
	)		
Opposer,	)	Opposition N <sup>o</sup> :	91178333
	)		
v.	)	Serial N <sup>o</sup> :	77/021,054
	)		
The House On F Street, LLC,	)		
	)		
Applicant.	)		
_____	)		

**ANSWER TO NOTICE OF OPPOSITION**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

The House On F Street, LLC, a Delaware Limited Liability Company having a place of business at Suite 800, 1660 West Second Street, Cleveland, Ohio 44113 ("Applicant"), hereby answers the Notice of Opposition of Opposer, Spy Optic, Inc., against U.S. Trademark Application Serial No. 77/021,054, 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. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Notice of Opposition.

5. Applicant admits that United States Trademark Registration No. 1,989,431 was registered by Spy Optics, Inc. on July 30, 1996 for the mark EYESPY for the goods set forth in the registration, and that a copy of that registration is attached to the Notice of Opposition as Exhibit 1. Except as specifically admitted herein, Applicant denies each and every allegation contained in paragraph 5 of the Notice of Opposition.

6. Applicant admits that United States Trademark Registration No. 1,981,513 was registered by No Fear, Inc. on June 18, 1996 for the mark SPY for the goods set forth in the registration, and that a copy of that registration is attached to the Notice of Opposition as Exhibit 2. Except as specifically admitted herein, Applicant denies each and every allegation contained in paragraph 6 of the Notice of Opposition.

7. Applicant admits that United States Trademark Registration No. 3,218,701 was registered by Spy Optic, Inc. on March 13, 2007 for the mark SPYOPTIC for the goods set forth in the registration, and that a copy of that registration is attached to the Notice of Opposition as Exhibit 3. Except as specifically admitted herein, Applicant denies each and every allegation contained in paragraph 7 of the Notice of Opposition.

8. Applicant admits that it filed an application for registration of OPERATION SPY in International Class 041 on October 13, 2006, and that this application was published for opposition in the Official Gazette on March 13, 2007 at TM 875. Except as specifically admitted herein, Applicant denies each and every allegation contained in paragraph 8 of the Notice of Opposition.

9. Applicant admits the allegations in paragraph 9 of the Notice of Opposition.
10. Applicant admits the allegations in paragraph 10 of the Notice of Opposition.
11. Applicant denies the allegations in paragraph 11 of the Notice of Opposition.
12. Applicant denies the allegations in paragraph 12 of the Notice of Opposition.
13. Applicant denies all allegations in the Notice of Opposition not specifically admitted above.

**FIRST AFFIRMATIVE DEFENSE**

14. Applicant's OPERATION SPY mark opposed herein ("Applicant's Mark") as applied to Applicant's identified services is sufficiently different from Opposer's SPY TRADEMARKS as applied to Opposer's identified goods to avoid any likelihood of confusion, mistake and/or deception.

**SECOND AFFIRMATIVE DEFENSE**

15. Due to the differences in the parties' marks, Opposer will not be damaged by the registration of Applicant's Mark.

**THIRD AFFIRMATIVE DEFENSE**

16. The differences between the goods identified in connection with each of Opposer's SPY TRADEMARKS and the services identified in connection with Applicant's Mark and their respective channels of distribution are significant.

**FOURTH AFFIRMATIVE DEFENSE**

17. Due to the significant differences between the goods identified in each of Opposer's SPY TRADEMARKS and the services identified in connection with Applicant's Mark and their respective channels of distribution, Opposer will not be damaged by the registration of Applicant's Mark.

**FIFTH AFFIRMATIVE DEFENSE**

18. Upon information and belief, numerous third parties have registered, used and/or are using the word "SPY" as part of other marks.

**SIXTH AFFIRMATIVE DEFENSE**

19. Opposer's SPY TRADEMARKS are "weak" marks entitled to limited scope of protection.

**SEVENTH AFFIRMATIVE DEFENSE**

20. Registration of Applicant's Mark is not likely to dilute any of Opposer's SPY TRADEMARKS.

**EIGHTH AFFIRMATIVE DEFENSE**

21. None of Opposer's SPY TRADEMARKS are famous marks.

**NINTH AFFIRMATIVE DEFENSE**

22. None of Opposer's SPY TRADEMARKS were famous marks as of October 13, 2006.

WHEREFORE, Applicant requests that the Opposition be dismissed and that registration of Applicant's Mark in Application Serial No. 77/021,054 be granted.

A duplicate copy of the Answer to Notice of Opposition has been sent via United States mail to counsel for Opposer on August 20<sup>th</sup>, 2007.

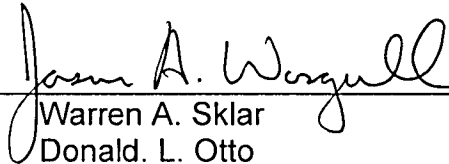
The Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 18-0988.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

Date: 8-20-07

By



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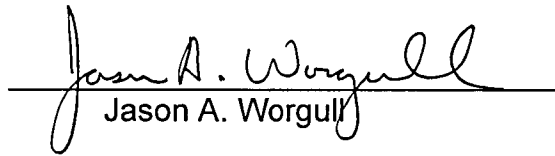
Attorneys for Applicant

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served on the following attorney of record for Opposer by depositing same in the United States mail, postage prepaid, this 20<sup>th</sup> day of August, 2007:

Kit M. Stetina, Esq.  
Stetina, Brunda, Garred & Brucker  
75 Enterprise, Suite 250  
Aliso Viejo, CA 92656

  
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Jason A. Worgull