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

| | |
|------------------------|--|
| Proceeding | 91180136 |
| Party | Defendant La-La Imports LP |
| Correspondence Address | JOHN E. LYHUS FITCH, EVEN, TABIN & FLANNERY 120 SOUTH LASALLE, SUITE 1600 CHICAGO, IL 60603-3406 trademark@fitcheven.com |
| Submission | Answer |
| Filer's Name | John E. Lyhus |
| Filer's e-mail | trademark@fitcheven.com |
| Signature | /John E. Lyhus/ |
| Date | 01/25/2008 |
| Attachments | 91155 Answer_1.PDF (6 pages)(227238 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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| | | |
|----------------------------|---|--------------------------|
| CALIFORNIA CLOSET COMPANY, |) | |
| |) | OPPOSITION NO. 91/180136 |
| OPPOSER, |) | |
| v. |) | |
| |) | |
| LA-LA IMPORTS LP, |) | |
| |) | |
| APPLICANT. |) | |

ANSWER TO NOTICE OF OPPOSITION

La-La Imports LP, Applicant in the above-identified Opposition, hereby responds to the Notice of Opposition filed by California Closet Company, opposing registration of the mark ORGANIZE, BEAUTIFY, SIMPLIFY, Application Serial No. 77/039733.

In response to the Notice of Opposition, Applicant states as follows:

1. The Opposer, California Closet Company, Inc., is a corporation duly organized and existing under the laws of the state of California and having a place of business at 1000 Fourth Street, San Rafael, California 94901. Opposer provides furniture, home and office storage and space organizational units and systems, as well as construction, design and installation services, and franchise services

ANSWER: 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 and, therefore, denies the same.

2. Since prior to the filing date of the application opposed herein, Opposer California Closet Company, Inc. has, and is now, engaged in the production, advertisement, marketing, distribution and sale of its goods and services in commerce under and in connection with the marks WHEN YOU ORGANIZE YOUR HOME YOU SIMPLIFY YOUR LIFE; SIMPLIFY YOUR LIFE and SIMPLIFYING HOME AND LIFE (hereafter collectively, Opposer's "Marks"). Since prior to the filing date of the application opposed herein, Opposer continuously has used

said Opposer's Marks, in commerce in connection with its products and services advertised, offered, marketed, distributed, and sold by Opposer, and to identify and designate same, and to distinguish those goods, services, and Opposer's business, from those of others.

ANSWER: 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 and, therefore, denies the same.

3. Opposer is the owner of and will rely on herein, the following U.S. trademark registrations:

| REGISTRATION NO. | ISSUE DATE |
|------------------|------------------|
| 1,915,339 | August 29, 1995 |
| 2,853,226 | June 15, 2004 |
| 3,168,301 | November 7, 2006 |

Said registrations are valid and subsisting, and operate as conclusive and/or *prima facie* evidence of Opposer's ownership of the marks set forth therein and exclusive right to use the registered marks in commerce. Attached hereto are printouts of information from the electronic database records of the U.S. Patent and Trademark Office showing the current status and title of these registrations.

ANSWER: 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 and, therefore, denies the same.

4. On November 8, 2006, Applicant filed an application to register the mark ORGANIZE, BEAUTIFY, SIMPLIFY. Said application was accorded serial no. 77/039,733, and was published for opposition in the OFFICIAL GAZETTE of June 19, 2007, at page TM 41, identifying the goods as follows:

general purpose metal storage containers; general purpose metal storage units; metal hanging baskets; metal cutlery baskets; baskets of common metals; metal sink baskets, in Class 6;

non-motorized food and tableware carts, in Class 12;

hampers; shelving; shelving and component parts thereof, namely shelves and brackets sold as a unit; shelving, namely, wire stacking shelves and shelf organizers; wardrobes; storage systems comprising shelves, drawers, cupboards, baskets and clothes rods, sold as a unit; plastic storage containers for commercial or industrial use; storage racks; general purpose metal storage racks; metal garment racks; wrapping paper racks and bag racks; plate racks; pot racks; wine racks; furniture; sink mats; shoe racks; dividers for drawers, in Class 20;

ice cube molds; portable beverage dispensers; dish drying racks; spice racks; cutlery trays made of plastic or metal; dish tubs made of plastic; dish drainers made of plastic or metal; towel racks; towel holders; clothespins; kitchen tea and food caddies; drinking glasses; containers for household or kitchen use; baskets of wicker, straw, cloth, wood and synthetic materials; flower vases and bowls; vases, in Class 21; and

pinatas, in Class 28.

ANSWER: Applicant is without knowledge or information sufficient to form a belief as to the truth of allegation that the mark was published on page TM 41 of the Official Gazette, and therefore denies the same. Applicant admits the remaining allegations contained in Paragraph 4 of the Notice of Opposition.

5. The mark sought to be registered by Applicant is virtually identical to, a colorable imitation of, and confusingly similar to, the prior and aforesaid Opposer's Marks.

ANSWER: Denied.

6. The goods identified in the application opposed herein are the same, similar and/or related, to the goods and services in connection with which Opposer uses Opposer's Marks, and are and/or will be sold and/or offered through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which Opposer's products and services are marketed and/or sold.

ANSWER: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice of Opposition and, therefore, denies the same.

7. The registration and/or use of the mark set forth in the opposed application is likely to cause confusion, mistake, and/or to deceive as to origin, sponsorship, and/or association of Applicant's goods sold under the mark sought to be registered by Applicant vis-a-vis Opposer and/or Opposer's Marks, and/or to mislead purchasers of Applicant's goods and/or Opposer's goods and/or services, and/or the public in general, into believing that Applicant's goods are sold by, emanate from, and/or in some way, directly or indirectly, are associated with California Closet Company, Inc., and/or Opposer's Marks and/or Opposer's goods, services or business, or vice versa, to the damage and detriment of Opposer.

ANSWER: Denied.

8. If Applicant is granted registration on the application opposed herein, and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Applicant will obtain unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946, to the detriment and harm of Opposer.

ANSWER: Denied.

Applicant hereby denies each and every allegation contained in the Notice of Opposition which is not otherwise herein specifically responded to.

AFFIRMATIVE DEFENSES

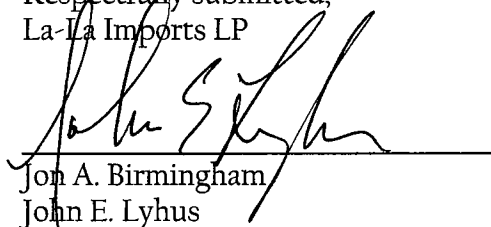
For its affirmative defenses to the Opposition, Applicant asserts the following:

1. The Notice of Opposition fails to state a claim upon which relief may be granted.
2. There is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the alleged marks of Opposer are not confusingly similar as used in connection with the specified goods.
3. There is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the alleged marks of Opposer are not confusingly similar as used in connection with certain of the specified goods.

WHEREFORE, Applicant respectfully prays that opposition to registration of its ORGANIZE, BEAUTIFY, SIMPLFY mark, Application No. 77/039733, be dismissed, that a Notice of Allowance be issued, and that Applicant be granted such other and further relief as the Board deems just and proper.

January 25, 2008

Respectfully submitted,
La-La Imports LP



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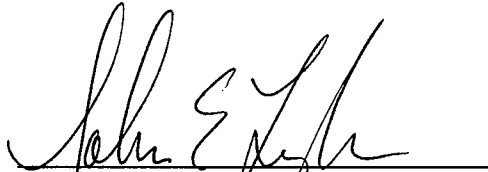
CERTIFICATE OF SERVICE

I, John E. Lyhus, one of the Attorneys for the Applicant, hereby certify that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served by first class mail, postage prepaid, upon:

Marsha G. Gentner
Jacobson Holman PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004

Attorney for Opposer

on this 25th day of January, 2008.

A handwritten signature in black ink, appearing to read "John E. Lyhus", is written over a horizontal line.

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