

ESTTA Tracking number: **ESTTA217739**

Filing date: **06/13/2008**

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

Proceeding	91183920
Party	Defendant KAY CASPERSON, INC.
Correspondence Address	ERIN E. HOUCK-TOLL HENDERSON, FRANKLIN, STARNES & HOLT, P.A 1715 MONROE ST FORT MYERS, FL 33901-3081  erin.houck-toll@henlaw.com
Submission	Answer
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Date	06/13/2008
Attachments	CASPERSON Answer.pdf ( 4 pages )(117729 bytes )



7. Admit.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

10. Admit.

11. Admit.

12. Deny. The Trussardi inside and design (the "Trussardi Mark") is not confusingly similar to Applicant's stylized lower case "inside" mark ("Applicant's Mark"). The Trussardi Mark consists of (1) a stylized figure of a greyhound's head, above (2) the word "Trussardi" in upper case, block-type letters, above (3) the word "inside" in upper case, block-type letters, and its registration is sought solely as a design. Applicant's Mark consists solely of the word "inside" in stylized lower case letters and is seeking registration solely as a design.

Comparing the two marks in their entirety, they are not similar. Furthermore, the dominant portion of the Trussardi Mark is the name Trussardi and the greyhound head figure, which appear at the top of the mark. Upon information and belief, Opponent uses this greyhound head figure and the word Trussardi on its other products, without use of the word "inside". Opponent asserts that Trussardi is "world famous". See Paragraph 2, Notice of Opposition. Upon information and belief, Opponent has used the word "Trussardi" and the greyhound head figure on several other products (including "Trussardi Jeans", "Trussardi Skin", "Trussardi Uomo"), which repetitive use proves that the value lies in Trussardi and the greyhound head figure. Such fame and value, as well as the prominence and placement of the greyhound head figure and the word Trussardi in the Trussardi Mark, support the conclusion

that either or both of these two features is the dominant portion of the Trussardi Mark, not the word "inside". See *Ty, Inc. v. Jones Group, Inc.*, 237 F.3d 891, 57 U.S.P.Q. 2d 1617 (7<sup>th</sup> Cir. 2001); *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 U.S.P.Q. 2d 1689 (Fed. Cir. 2005). Applicant's Mark consists solely of the stylized lower case "inside". Comparing the dominant portion of the Trussardi Mark to the Applicant's Mark, it is further clear that the two marks are not confusingly similar.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment.

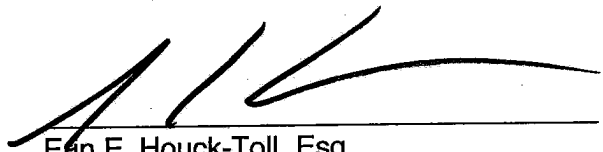
14. Deny. The Applicant's Mark and the Opposer's Mark are not confusingly similar and therefore no likelihood of confusion would result.

15. Deny.

**WHEREFORE**, the Applicant, Kay Casperson, Inc., denies that Opponent will be damaged and prays that this opposition be dismissed and that the Notice of Allowance of the Applicant's Mark be granted.

Respectfully submitted,

Dated: June 13, 2008



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as Attorney for Kay Casperson, Inc., Applicant  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the Answer was deposited with United States Postal Service on June 13, 2008 by prepaid first class postage, certified return receipt requested mail addressed to:

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Erin E. Houck-Toll, Esq.

Dated: June 13, 2008  
Fort Myers, Florida