

ESTTA Tracking number: **ESTTA226734**

Filing date: **07/28/2008**

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

Proceeding	91184635
Party	Defendant Holzer y Cia, S.A. de C.V.
Correspondence Address	VALERIE VERRET BAKER BOTTS LLP 2001 ROSS AVE STE 600 DALLAS, TX 75201  daltmdept@bakerbotts.com
Submission	Answer
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Signature	/Valerie Verret/
Date	07/28/2008
Attachments	NIVADA SWISS & Design - Answer and Affirmative Defenses.PDF ( 4 pages ) (101266 bytes )



5. Applicant admits that the USPTO website identifies Opposer as the owner of the U.S. Trademark Registrations listed in Paragraph 5, but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 5 of the Notice of Opposition and therefore, denies the same.

6. Applicant admits that it is a corporation organized and existing under the laws of Mexico and that it manufactures and sells watches in Class 14. Applicant denies the remaining allegations set forth in paragraph 6 of the Notice of Opposition.

7. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 7 of the Notice of Opposition and therefore, denies the same.

8. Applicant denies the allegations set forth in paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations set forth in paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations set forth in paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations set forth in paragraph 11 of the Notice of Opposition.

#### AFFIRMATIVE DEFENSES

1. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.

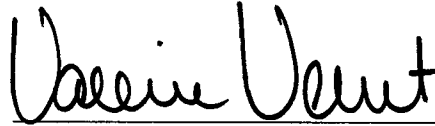
2. Opposer lacks standing to assert this opposition.

3. Opposer's claims are barred by the doctrine of unclean hands.

4. Opposer's claims are barred by the doctrine of estoppel.

**WHEREFORE**, Applicant requests that Opposition No. 91184635 be dismissed in its entirety and that registration be granted on its Application Serial No. 78/966,212 for the mark NIVADA SWISS & Design.

Respectfully submitted this 28th day of July, 2008.

A handwritten signature in black ink that reads "Valerie Verret". The signature is written in a cursive style with a horizontal line underneath it.

Valerie Verret  
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ATTORNEYS FOR APPLICANT  
HOLZER Y CIA, S.A. DE C.V.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of July, 2008, I mailed, via first class mail, postage prepaid, a true and correct copy of the foregoing APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES to:

Amy J. Benjamin  
Abigail Rubinstein  
7 World Trade Center  
250 Greenwich Street  
New York, New York 10007-0042



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Valerie Verret

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that on this 28th day of July, 2008, the foregoing APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES is being electronically filed with the Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA).



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Cecily Porterfield