ESTTA Tracking number: **ESTTA261539**

Filing date: **01/20/2009**

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

Proceeding	91185117
Party	Defendant CAMELBAK PRODUCTS, LLC
Correspondence Address	David S. D'Ascenzo D'Ascenzio Intellectual Property Law, P.C. 522 S.W. 5th Avenue, Suite 925 Portland, OR 97204 UNITED STATES david@dascenzoiplaw.com
Submission	Answer
Filer's Name	David S. D'Ascenzo
Filer's e-mail	david@dascenzoiplaw.com, shelly@dascenzoiplaw.com
Signature	/David S. D'Ascenzo/
Date	01/20/2009
Attachments	Applicant's Answer to Notice of Opposition.pdf (7 pages)(320305 bytes) Certificate of Service - Applicant's Answer to Notice of Opposition.pdf (1 page)(23785 bytes)

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

IN. PRO.DI - INGHIRAMI PRODUZIONE DISTRIBUZIONE S.P.A.,	)	
Opposer,	)	
v.	)	Opposition No. 91185117
CAMELBAK PRODUCTS, LLC	)	
Applicant.	)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

CamelBak Products, LLC ("Applicant"), hereby answers the Notice of Opposition filed by In.Pro.Di – Inghirami Produzione Distribuzione S.P.A. ("Opposer") against Applicant's U.S. Trademark Application Serial No. 77/067,406 (the "Application") for registration of the CAMELBAK mark (the "Applied-for Mark") for recited goods in International Class 025 (Applicant's "Class 025 Goods"), as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 1.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 2.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 3. However, Applicant admits that December 12, 1973 is prior to the filing date of the Application, is prior to the first use date of the Applied-for Mark for Applicant's Class 025 Goods, and is prior to any priority date that Applicant is presently aware may be claimed by

Applicant for use of the Applied-for Mark for Applicant's Class 025 Goods. Applicant denies any remaining averments of Paragraph 3.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 4. However, Applicant admits that the records of the Trademark Electronic Search System ("TESS") identify Opposer as the owner of U.S. Trademark Registration No. 1,059,939 ("Opposer's Registration") for the CAMEL mark ("Opposer's Mark") and identify the corresponding goods as "ready-made garments, particularly shirts" ("Opposer's Identified Goods"). Applicant further admits that Exhibit A of the Notice of Opposition appears to include true and correct copies of Opposer's Certificates of Registration for Opposer's Registration and relevant pages from the Trademark Applications and Registrations Retrieval Database.

5. Applicant admits the averments of Paragraph 5 in so much as TESS identifies December 20, 1974 as the filing date of the application that eventually registered as Opposer's Registration and February 22, 1977 as the registration date of Opposer's Registration. Applicant admits that December 20, 1974 and February 22, 1977 are both prior to the filing date of the Application and prior to any priority date that Applicant is presently aware may be claimed by Applicant for use of the Applied-for Mark for Applicant's Class 025 Goods. Applicant denies any remaining averments of Paragraph 5.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 6. However, Applicant admits that the TESS identifies that Section 8 & 15 declarations were filed and accepted for Opposer's Registration. Applicant denies any remaining averments of Paragraph 6.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 7.

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

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

10. Applicant denies that Opposer's Mark is inherently strong in so much as Opposer's use of the terms "inherently strong" in Paragraph 10 is ambiguous and/or misleading. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of Paragraph 10.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 11.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 12.

13. Applicant admits that it is a Delaware limited liability company and denies that its address is as indicated in Paragraph 13 in so much as Applicant's current address is 2000 S. McDowell, Suite 200, Petaluma, California 94954.

14. Applicant admits that it filed the Application as an intent-to-use application for registration of the Applied-for Mark on December 19, 2006. Applicant denies the remaining averments of Paragraph 14 in so much as the indicated descriptions of goods for the Application do not correspond to the Identification of Goods in Applicant's Application, as filed. Applicant admits that Paragraph 14 correctly identifies Applicant's Class 025 Goods from Applicant's published Application as "Applicant's Goods," and that Paragraph 14 correctly identifies Applicant's unopposed Class 009 Goods as "Applicant's Other Goods."

15. Applicant denies the averments of Paragraph 15 in so much as prior to the filing date of the Application, and upon information and belief, Applicant had used the Applied-for Mark in connection with at least a subset of Applicant's Class 025 Goods.

16. Applicant denies the averments of Paragraph 16 in so much as prior to the filing date of the Application, and upon information and belief, Applicant had used the Applied-for Mark in connection with at least a subset of Applicant's unopposed Class 009 Goods.

17. Applicant admits the averments of Paragraph 17.

18. Applicant admits the averments of Paragraph 18.

19. Applicant denies the averments of Paragraph 19 in so much as Opposer's use of the terms "Opposer's trademark rights" in Paragraph 19 is ambiguous and/or misleading. Applicant admits that December 20, 1974 and February 22, 1977 (the filing and registration dates of Opposer's Registration, respectively) are both prior to the alleged first use and filing dates of Applicant's Registrations identified in Paragraph 17.

20. Applicant denies the averments of Paragraph 20.

21. Applicant denies the averments of Paragraph 21 in so much as Opposer's use of the terms "the whole of Opposer's registered mark" in Paragraph 21 is ambiguous and/or misleading. Applicant admits that the Applied-for Mark includes the string of letters "camel" within the Applied-for Mark and in combination with additional letters.

22. Applicant denies the averments of Paragraph 22.

23. Applicant denies the averments of Paragraph 23 in so much as Opposer's use of the terms "the only difference" and the terms "the whole of Opposer's mark" in Paragraph 23 are ambiguous and/or misleading. Applicant admits that the Applied-for Mark is CAMELBAK and that Opposer's Mark is CAMEL.

24. Applicant denies the averments of Paragraph 24.

25. Applicant admits that its Class 025 Goods include "shirts," amongst other goods, and admits that Opposer's Registration identifies "ready-made garments, particularly shirts." Applicant denies any remaining averments of Paragraph 25.

26. Applicant denies the averments of Paragraph 26 in so much as Opposer's use of the terms "highly related" in Paragraph 26 is ambiguous and/or misleading. Applicant admits that its Class 025 Goods include "shirts," amongst other goods, and admits that Opposer's Registration identifies "ready-made garments, particularly shirts." Applicant denies any remaining averments of Paragraph 26.

27. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 27.

28. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 28.

29. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 29. Applicant admits that its Class 025 Goods include "shirts," amongst other goods, and admits that Opposer's Registration identifies "ready-made garments, particularly shirts." Applicant denies any remaining averments of Paragraph 29.

30. Applicant denies the averments of Paragraph 30.

31. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 31 in so much as Opposer's use of the terms "Opposer's previously registered mark" in Paragraph 31 is ambiguous and/or misleading. Applicant denies that its Applied-for Mark, when applied to Applicant's Class 025 Goods, is likely to cause confusion, mistake and/or deception within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with

Opposer's use of Opposer's Mark in connection with Opposer's Identified Goods. Applicant denies any remaining averments of Paragraph 31.

32. Applicant denies the averments of Paragraph 32.

33. Applicant denies the averments of Paragraph 33.

AFFIRMATIVE DEFENSES

1. Applicant's use of the Applied-for Mark in connection with its Class 025 Goods will not cause a likelihood of confusion with Opposer's Mark, as used in connection with Opposer's Identified Goods.

2. Applicant's use and/or registration of the Applied-for Mark in connection with its Class 025 Goods will not dilute, tarnish, or result in a lack of designation or indication of origin and a loss of distinctiveness and exclusivity in Opposer's Mark, as used in connection with Opposer's Identified Goods.

3. Opposer has abandoned any rights it may have in Opposer's Mark by failing to police use and/or registration by third parties.

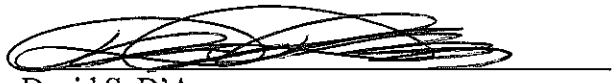
4. Applicant reserves the right to add and/or rely on other defenses, including affirmative defenses, as they may be revealed in the course of Discovery.

WHEREFORE, Applicant respectfully requests judgment dismissing Opposer's Notice of Opposition and this proceeding in its entirety.

DATED this 20th day of January, 2009.

Respectfully submitted,

DASCENZO INTELLECTUAL PROPERTY LAW, P.C.



David S. D'Ascenzo
Of Attorneys for Applicant
Registration No. 39,952
DASCENZO INTELLECTUAL PROPERTY LAW, P.C.
522 S.W. 5th Avenue, Suite 925
Portland, Oregon 97204
Telephone: (503) 224-7529
Facsimile: (503) 224-7329

CERTIFICATE OF E-FILING

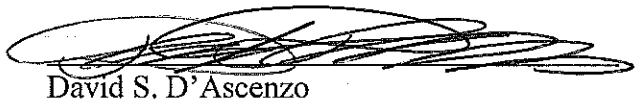
I hereby certify that this correspondence is being e-filed with the Trademark Trial and Appeal Board via the ESTTA on January 20, 2009.

David S. D'Ascenzo

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Applicant's Answer to Notice of Opposition was served on Opposer on January 20, 2009 via email to cshore@lsllp.com and via U.S. first class mail addressed to counsel for Opposer as follows:

Cathy E. Shore-Sirotin
Lackenbach Siegel LLP
Lackenbach Siegel Building
One Chase Road
Scarsdale, New York 10583



David S. D'Ascenzo
Of Attorneys for Applicant