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

Proceeding	91186730
Party	Defendant McEvoy of Marin, LLC
Correspondence Address	NATE A. GARHART COBLENTZ, PATCH, DUFFY & BASS LLP 1 FERRY BUILDING STE 200 SAN FRANCISCO, CA 94111-4213 nag@cpdb.com
Submission	Answer
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Date	11/07/2008
Attachments	mcevoy.PDF (4 pages)(161951 bytes)

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

In re Application No. 77/208,356
Filed: June 18, 2007
Published: June 3, 2008

Trish McEvoy Ltd.,

Opposer,

v.

McEvoy of Marin, LLC,

Applicant.

Opposition No. 91186730

ANSWER TO NOTICE OF OPPOSITION

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

McEvoy of Marin, LLC ("Applicant"), by and through its attorneys, Coblentz, Patch, Duffy & Bass LLP, One Ferry Building, Suite 200, San Francisco, California 94111, hereby answers the Notice of Opposition of Trish McEvoy Ltd. ("Opposer") in this matter. Applicant responds to the numbered paragraphs of the Notice of Opposition as follows:

1. Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations set forth in Paragraph 1 of the Notice of Opposition, and therefore denies same.
2. Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations set forth in Paragraph 2 of the Notice of Opposition, and therefore denies same.
3. Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations set forth in Paragraph 3 of the Notice of Opposition, and therefore denies same.

4. Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations set forth in Paragraph 4 of the Notice of Opposition, and therefore denies same.

5. Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Notice of Opposition, and therefore denies same.

6. Applicant admits that on June 18th, 2006, it filed an application seeking registration of the MCEVOY RANCH mark. Applicant denies the remaining allegations of Paragraph 6 of the Notice of Opposition.

7. Applicant admits that it applied to register the MCEVOY RANCH mark in connection with the goods identified by Opposer in Paragraph 7 of the Notice of Opposition. The emphasis added by Opposer does not appear to warrant an answer.

8. Applicant admits that it applied to register the MCEVOY RANCH mark on an intent-to-use basis and that it has not yet filed an allegation of use. To the extent that Paragraph 8 of the Notice of Opposition asserts legal conclusions, Applicant is not required to respond thereto. Notwithstanding the foregoing, Applicant denies each and every remaining allegation in Paragraph 8 of the Notice of Opposition.

9. To the extent that Paragraph 9 of the Notice of Opposition asserts legal conclusions, Applicant is not required to respond thereto. Notwithstanding the foregoing, Applicant denies each and every allegation in Paragraph 9 of the Notice of Opposition.

10. To the extent that Paragraph 10 of the Notice of Opposition asserts legal conclusions, Applicant is not required to respond thereto. Notwithstanding the foregoing, Applicant denies each and every allegation in Paragraph 10 of the Notice of Opposition.

11. To the extent that Paragraph 11 of the Notice of Opposition asserts legal conclusions, Applicant is not required to respond thereto. Notwithstanding the foregoing, Applicant denies each and every allegation in Paragraph 11 of the Notice of Opposition.

12. To the extent that Paragraph 12 of the Notice of Opposition asserts legal conclusions, Applicant is not required to respond thereto. Notwithstanding the foregoing,

Applicant denies each and every allegation in Paragraph 12 of the Notice of Opposition.

13. To the extent that Paragraph 13 of the Notice of Opposition asserts legal conclusions, Applicant is not required to respond thereto. Notwithstanding the foregoing, Applicant denies each and every allegation in Paragraph 13 of the Notice of Opposition.

DEFENSES

Applicant alleges the following affirmative defenses:

First Affirmative Defense

The Notice of Opposition fails to state a claim upon which relief may be granted.

Second Affirmative Defense

On information and belief, Applicant alleges that due to the differences between Applicant's mark and Opposer's marks and the goods and/or services on and/or in connection with the respective marks are used, there is no likelihood of confusion, mistake, or deception between Opposer's marks and Applicant's mark.

Third Affirmative Defense

On information and belief, Opposer's claims are barred by the doctrine of laches, waiver, and estoppel.

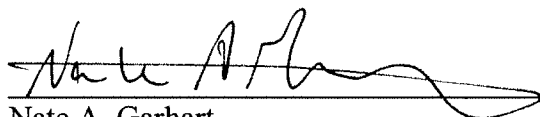
WHEREFORE, having made full answer to the Notice of Opposition, or to such parts or portions thereof that Applicant is advised are material, Applicant prays that the Opposition be dismissed with prejudice to the Opposer and that Applicant's application to register its MCEVOY RANCH mark be allowed.

Please address any correspondence to the undersigned attorney for Applicant and charge any necessary fees, or credit any overpayment, to Deposit Account No. 50-1989.

Respectfully submitted,

DATED: November 7, 2008

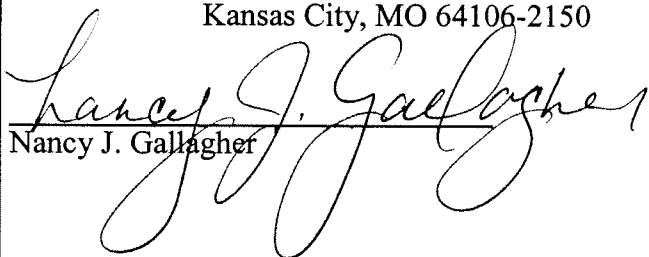
COBLENTZ, PATCH, DUFFY & BASS LLP

By: 
Nate A. Garhart
Attorneys for Applicant McEvoy of Marin, LLC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing ANSWER TO NOTICE OF OPPOSITION was served upon counsel for Opposer by depositing one true and correct copy thereof in the United States Mail, first-class postage prepaid, on November 7, 2008, addressed as follows:

Timothy J. Feathers
Stinson Morrison Hecker LLP
1201 Walnut, Suite 2900
Kansas City, MO 64106-2150


Nancy J. Gallagher