

ESTTA Tracking number: **ESTTA255012**

Filing date: **12/15/2008**

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

Proceeding	91187350
Party	Defendant Philip Madison Jones
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Submission	Answer
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Date	12/15/2008
Attachments	Answer_to_Opposition-MAJESTIC_FORCE.pdf (5 pages)(68713 bytes)

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

In Re Application Serial Number : 77/399,884
Application Filing Date : February 19, 2008
Opposition Mailing Date: December 27, 2007
Opposition Number : 91/187350
Applicant's Proposed Mark : MAJESTIC FORCE
Date of Publication : July 8, 2008

IMAGEWEAR APPAREL CORP, a Delaware Corporation v. PHILIP MADISON JONES, an Individual	} } } } } } } } } } } }	Opposer, Applicant,	} } } } } } } } } } }	APPLICANTS ANSWER AND AFFIRMATIVE DEFENSES TO OPPOSER'S NOTICE OF OPPOSITION
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Commissioner for Trademarks
Attention : Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES

APPLICANT'S ANSWER

Applicant , PHILIP MADISON JONES, by his attorney, Ken Dallara, Attorney at Law, submits this Answer to the Notice of Opposition submitted by Opposer, Imagewear Apparel Corporation, dated November 5, 2008 to the Trademark Trial and Appeal Board. Applicant's submits the following Answer :

1. Except as expressly admitted below, Applicant denies all allegations contained in the Opposer's Notice of Opposition.
2. Applicant lacks sufficient knowledge about or information contained therein to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition.
3. Applicant lacks sufficient knowledge about or information contained therein to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition.
4. Applicant lacks sufficient knowledge about or information contained therein to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition.
5. Applicant lacks sufficient knowledge about or information contained therein to form a belief as to the truth of the allegations contained in paragraph 4 of the Notice of Opposition.
6. Applicant admits to the allegations contained in paragraph 5 of the Notice of Opposition.
7. Applicant admits to the allegations contained in paragraph 6 of the Notice of Opposition.
8. Applicant admits to the allegations contained in paragraph 7 of the Notice of Opposition.
9. Applicant denies the allegations contained in paragraph 8 of the Notice of Opposition.
10. Applicant denies the allegations contained in paragraph 9 of the Notice of Opposition.
11. Applicant denies the allegations contained in paragraph 10 of the Notice of Opposition.

12. Applicant denies the allegations contained in paragraph 11 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

A. Opposer's Notice of Opposition, in whole or as to specific allegations, fails to state a claim which relief may be granted.

B. Applicant has rights in its Mark MAJESTIC FORCE superior to those in Opposer's claimed mark.

C. There is and can be no likelihood of confusion, mistake, deception or potential damages as alleged by Opposer because Applicant's Mark, MAJESTIC FORCE, is visually and phonetically distinct from Opposer's marks and vice versa.

D. There is and can be no likelihood of confusion, mistake, deception or potential damages as alleged by Opposer because Applicant's Mark, MAJESTIC FORCE, is distinct in sound, appearance and connotation and for other reasons are not confusingly similar to Opposer's marks and vice versa.

E. There is and can be no likelihood of confusion, mistake, deception or potential damages as alleged by Opposer as Opposer's goods and the goods of the Applicant are non-competitive and unrelated, and do not share similar streams of commerce.

F. Applicant reserves the right to rely on all matters constituting an avoidance or affirmative defense to the extent that such defenses are supported by information developed through discovery or by evidence during testimony or at trial.

THEREFORE, Applicant respectfully requests that Opposer's Notice of Opposition be denied and that Application Serial Number 77/399,884 , be granted registration.

Respectfully submitted,

/Ken Dallara/

Ken Dallara, Esq,
Attorney for Applicant, Philip Madison Jones

Dated : December 15, 2008

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CERTIFICATE OF SERVICE

1) I hereby certify that a copy of the APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES was caused to be transmitted to the Trademark Trial and Appeal Board via the ESTTA electronic filing system on December 15, 2008.

2) I hereby certify that a copy of the APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES was served upon aforementioned counsel by depositing it with the United States Post Office, postage prepaid, on December 15, 2008 via First Class Mail to the following recipient:

Mr. Christopher M. Turk, Esq.
Assistant Secretary
Imagewear Apparel Corporation
3411 Silverside Road
Wilmington, Delaware 19810

By : /ken dallara/
Ken Dallara, Esq - Attorney for Applicant – Philip Madison Jones