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

Proceeding	91190104
Party	Defendant Hubbell Development Corporation
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Montblanc-Simplo GmbH,
Opposer,

Opposition No.
Serial No: 77546262

v.

Hubbell Development Corp. d/b/a
White Mountain Candle Company,
Applicant.

Mark: WHITE MOUNTAIN CANDLE

ANSWER TO OPPOSITION

1. In the matter of Application Serial No. 77546262 for registration of the mark WHITE MOUNTAIN CANDLE, for “Candle torches; Candles; Candles and wicks for candles for lighting; Candles for lighting; Perfumed candles; Scented candles; Scented wax for use in candle warmers, in International Class 004 (“Applicant’s Goods”) which Application was filed on August 13, 2008 by Hubbell Development Corporation (a New Hampshire licensed Corporation) d/b/a White Mountain Candle (a subsidiary of Hubbell Development Corporation and also registered in the State of New Hampshire), (“Applicant”) and which was published in the Official Gazette on January 6, 2009; MontBlanc-Simplo GmbH, a limited liability company (“Opposer”), first opposed the mark of WHITE MOUNTAIN CANDLE on January 26, 2009; requesting an extension of time to oppose. Opposer then requested and received an additional extension of time to oppose the mark on March 9, 2009, claims to believe it will be damaged by registration of the mark of the Applicant.

The Applicant disagrees with the claim made by the Opposer and lists the following as evidence:

1. Applicant is the owner of the registered trade name White Mountain Candle Company and has been such since August 13, 2008.

2. Applicant has used the trade name White Mountain Candle in connection with candle manufacturing since August 1, 2008.

3. Opposer has claimed to use the mark MONTBLANC (and Design), (not White Mountain) in connection with writing instruments since at least 1913.

4. There are currently at least 14 registered trademarks with the U.S. Patent and Trademark Office using some form of WHITE MOUNTAIN in their marks and which deal in various Goods and or Services.

MARK	REG NO.	REG. DATE	GOODS/SERVICES
MONTAGNE BLANCHE – WHITE MOUNTAIN	3223224	March 27, 2007	Dairy products, namely cheese
GOLF IN THE WHITE MOUNTAINS	3462259	July 8, 2008	Printed materials, Namely, a periodically published map and guide
SNOWY WHITE MOUNTAIN	3180603	December 5, 2006	Tea
WHITE MOUNTAIN YOGA	2797760	December 23, 2003	Yoga instruction classes to groups and private yoga instruction to individuals
WHITE MOUNTAIN RE SIRIUS	3603998	April 7, 2009	Insurance and financial services, namely, insurance underwriting and reinsurance underwriting in the property, casualty, accident, aviation,

			fire, marine, health, life and medical insurance fields; all of the foregoing provided via the Internet, telephone, facsimile, e-mail or other means
WHITE MOUNTAIN	3605638	April 14, 2009	refined sugar, white sugar, powdered sugar, standard sugar
WHITE MOUNTAINS RE AMERICA	3599842	March 31, 2009	insurance and financial services, namely, insurance underwriting and reinsurance underwriting in the property, casualty, accident, fire, marine, health, life and medical insurance fields
W WHITE MOUNTAIN	3594126	March 24, 2009	Footwear
WHITE MOUNTAIN FIBER OPTICS CABLE CONSTRUCTION LLC	3504228	September 23, 2008	Installation, maintenance and repair of telecommunication infrastructure, namely, fiber, cable and wire systems
WHITE MOUNTAIN CABLE	3501171	September 16, 2008	Installation, maintenance and repair of telecommunication infrastructure, namely, fiber, cable and wire systems
WHITE MOUNTAIN FLOORING	3499608	September 9, 2008	Wooden Flooring
WHITE MOUNTAIN FIELDSTONE	3439577	June 3, 2008	Building Stone
EDIBLE WHITE MOUNTAINS	3391717	March 4, 2008	Magazines featuring tourism, culinary and agriculture industries and publications namely, magazines and newsletters dealing with connecting consumers with local growers, food retailers, chefs and food artisans
WHITE MOUNTAIN HEARTH	2832704	April 13, 2004	hearth and fireplace products, namely, gas fireplaces, non-flammable artificial logs and artificial embers for gas fireplaces, fireplace floor pads and liners for gas fireplaces

5. Applicant's mark is WHITE MOUNTAIN CANDLE, not MONTBLANC.

6. As stated in the notice of opposition, Opposer advertises throughout the United States and the world as "MONTBLANC", not WHITE MOUNTAIN.

7. Opposer's actual direct English translation is: Mont- meaning "Mountain" and Blanc- meaning "White". Therefore the actual translation to English would be "Mountain White", not the reverse, White Mountain.

8. Opposer and Applicant are not translating their trademarks of their goods. Opposer's trademark is MONTBLANC in the United States of America and is MONTBLANC in Germany. Applicant's mark is WHITE MOUNTAIN CANDLE in the United States of America and WHITE MOUNTAIN CANDLE in Germany.

9. None of the Opposer's registered trademark's lists Candle torches; Candles; Candles and wicks for candles for lighting; Candles for lighting; Perfumed candles; Scented candles or Scented wax for use in candle warmers as any of their goods.

10. Opposer is currently attempting to register the trademark "LOVE YOURSELF", serial no. 79067756 under the Goods description of "massage candles". Opposer is doing so under the name of GmbH. Opposer's filing date for this trademark is March 18, 2009, which is well after the Applicant's filing date of August 13, 2008 for WHITE MOUNTAIN CANDLE.

11. Applicant's mark when used in connection with applicants goods would not cause confusion, mistake or deception as to the origin of Applicant's Goods under Section 2(d) of the Trademark Act, 15 U.S.C § 1052(d). Therefore, Opposer would not be damaged by the registration of Applicant's mark within the meaning of Section 1063 of Title 15, United States Code.

12. Use and registration by Applicant of Applicant's mark in connection with Applicant's Goods is likely to give rise to the belief by consumers that Applicant's Goods originate from or are in some way associated with the White Mountains of the State of New Hampshire, which is true. Use and registration by Applicant of Applicant's mark in connection with Candle Manufacturing would not give rise to the belief by consumers that Applicant's Goods originate from or are anyway associated with Opposer's Goods.

13. Use and registration by Applicant of Applicant's mark in connection with Applicant's Goods will not cause consumers to be confused and deceived as to source, origin, affiliation and sponsorship of Applicant's goods offered under Applicant's mark for Applicant's Goods as the marks of the Applicant and Opposer differ completely in lettering, language, design, location and Goods offered.

14. Opposer and Applicant **do not** hold exclusive rights to the words WHITE MOUNTAIN and as such, Opposer's reputation will not be damaged by this Applicant's, (or the 14 other registered trademarks listed above), use of the words WHITE MOUNTAIN in their trademarks.

15. Applicant concurs that the trademark MONTBLANC is distinctive.

Applicant's mark is also distinctive, as are the other 14 registered trademarks with the words White Mountain in them. Applicant's use of its mark "WHITE MOUNTAIN CANDLE" in no way affects the distinctiveness of the Opposer's trademark.

WHEREFORE, Applicant requests that the registration sought by Applicant be granted and that the Opposition be overruled.

Respectfully Submitted,

Mark R. Hubbell
President

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2009, a true and correct copy of the foregoing ANSWER TO OPPOSITION was served U.S. mail on the following attorney of record filing the Opposition for Montblanc-Simplo GmbH:

Milton Springut
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Mark R. Hubbell