

ESTTA Tracking number: **ESTTA320532**

Filing date: **12/07/2009**

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

Proceeding	91192469
Party	Defendant UNITED BUSINESS MEDIA LLC
Correspondence Address	Susan L. Heller GREENBERG TRAURIG LLP 2450 COLORADO AVE STE 400E SANTA MONICA, CA 90404-5524 latm2@gtlaw.com
Submission	Answer
Filer's Name	Monica B. Richman- Attorney of record
Filer's e-mail	trademarks@sonnenschein.com, mrichman@sonnenschein.com, pmorales@sonnenschein.com
Signature	/monica b. richman/
Date	12/07/2009
Attachments	Think Services Opposition.pdf (4 pages)(155720 bytes)

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

Think Schuhwerk GmbH

Petitioner,

v.

United Business Media LLC

Respondent.

Opposition No.: 91192469

App. No. 77/408045

APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES TO
THE NOTICE OF OPPOSITION

Applicant, United Business Media LLC ("UBM") files this Answer and Affirmative Defenses to the above-captioned notice of opposition of Serial No. 77/408045 (the "Subject Application") for the mark THINK SERVICES instituted by Think Schuhwerk GmbH ("Petitioner").

In response to the introductory paragraph of the Petition, Applicant is without sufficient knowledge or information concerning the corporate status and place of business of Petitioner and on that basis denies the same, and denies Petitioner would be damaged by the registration of the Application. Further answering, Applicant responds:

1. Applicant admits the allegations set forth in Paragraph 1.
2. Applicant admits the allegations set forth in Paragraph 2.
3. Applicant admits the allegations set forth in Paragraph 3.
4. Applicant admits the allegations set forth in Paragraph 4.
5. Applicant admits the allegations set forth in Paragraph 5.
6. Applicant denies the allegations set forth in Paragraph 6.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of allegations contained in Paragraph 7 of the Petition, and on that basis denies the same.

8. Applicant admits that the TESS records indicate that Opposer's prior pending application was assigned App. Serial No. 79/042753 and on September 30, 2008, that pending application matured to registration, Registration No. 3508870.

9. Applicant denies the allegations contained in Paragraph 9 of the Petition.

10. Applicant denies the allegations contained in Paragraph 10 of the Petition.

11. Applicant denies the allegations contained in Paragraph 11 of the Petition.

12. Applicant denies the allegations contained in Paragraph 12 of the Petition..

13. Applicant denies the allegations contained in Paragraph 13 of the Petition.

14. Applicant denies the allegations contained in Paragraph 14 of the Petition.

15. Applicant denies the allegations contained in Paragraph 15 of the Petition.

16. Applicant denies the allegations contained in Paragraph 16 of the Petition.

17. Applicant denies the allegations contained in Paragraph 17 of the Petition.

18. Applicant denies that its Application should be rejected and requests that this opposition be denied and dismissed with prejudice.

AFFIRMATIVE DEFENSES

1. Upon information and belief, Petitioner has not used its mark in United States commerce and, therefore, confusion is not likely between the Petitioner's mark and the Subject Application.

2. Upon information and belief, Petitioner has not used its mark in United States commerce and, therefore, use of Applicant's mark cannot cause damage or injury to Opposer.

3. Upon information and belief, Petitioner has abandoned its mark in the United States.

4. Petitioner's mark is not entitled to a scope of protection wide enough to preclude use and registration of the Subject Application.

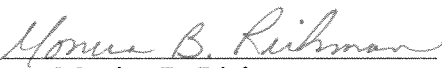
5. Petitioner does not have any proprietary rights that are superior to Applicant's rights in the Subject Application. Even if Petitioner were able to demonstrate that it holds prior rights in the term THINK, such rights would be limited narrowly to the description in its registration, which prevents a likelihood of confusion with the Subject Application.

6. Petitioner lacks standing because there is no basis for Petitioner's belief that it would be damaged by registration of the Subject Application.

WHEREFORE, Applicant respectfully requests that this opposition be denied and dismissed with prejudice.

Respectfully Submitted,

Dated: December 7, 2009

By 
Monica B. Richman
Attorneys for Applicant
Sonnenschein, Nath & Rosenthal LLP
1221 Avenue of the Americas
New York, NY 10020
T: 212-768-5367
F: 212-768-6800
E: mrichman@sonnenschein.com

CERTIFICATE OF SERVICE

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as:

APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES TO THE NOTICE OF CANCELLATION

to the parties in this action, by placing a true copy thereof in a sealed envelope addressed as follows:

Ellen A. Rubel
Moore & Van Allen PLLC
420 Davis Drive, Suite 500
Morrisville, NC 27560

- (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at New York, NY.
- (VIA FEDERAL EXPRESS) I caused to be delivered by Federal Express Courier Service the attached documents to the person named above.
- (BY MESSENGER) I caused to be delivered by hand the attached documents to the person named above.
- (BY FACSIMILE) I caused the attached documents to be transmitted via facsimile to the person named above.

I declare under penalty of perjury that the foregoing is true and correct. Executed at New York, NY, on December 7, 2009.



Patricia Morales
Trademark Paralagel
Sonnenschein Nath & Rosenthal LLP