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Filing date: **11/04/2010**

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

Proceeding	91196619
Party	Defendant Dunhill Tobacco of London Limited
Correspondence Address	PASQUALE A. RAZZANO FITZPATRICK, CELLA, HARPER & SCINTO 1290 AVENUE OF THE AMERICAS NEW YORK, NY 10104-0101 UNITED STATES
Submission	Answer
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Date	11/04/2010
Attachments	Dunhill Answer to Not. of Opp.PDF ( 5 pages )(137492 bytes )

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

-----X	)	
ROSALIE ANN JACOBS,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.: . 91196619
	)	Serial No. 77/852378
DUNHILL TOBACCO OF LONDON LIMITED,	)	
	)	
Applicant.	)	
-----X	)	

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

Applicant, Dunhill Tobacco of London Limited, through its undersigned counsel, answers Opposer's Notice of Opposition as follows:

1. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of Paragraph 1 of the Notice of Opposition and therefore denies the same. Applicant further states that to the extent Opposer sells cigarette or cigar products, such products are legally sold only on a limited number of Indian Reservations and that she is not licensed by the Federal Government of the United States to sell any tobacco products, so that sales outside such reservations would be illegal.

2. Admitted.

3. Applicant denies the allegations of Paragraph 3 of the Notice of Opposition, except Applicant admits Opposer filed Application Ser. No. 77/700,049 in the Trademark Office on March 26, 2009.

4. Applicant admits the allegations of Paragraph 4.

5. Applicant denies the allegations of Paragraph 5 of the Notice of Opposition, except Applicant admits Opposer filed Application Ser. No. 77/714,718 in the Trademark Office on April 15, 2009.

6. Applicant admits the allegations of Paragraph 6.

7. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of Paragraph 7 of the Notice of Opposition and therefore denies the same.

8. Applicant admits the allegations of Paragraph 8.

9. Applicant admits the allegations of Paragraph 9.

10. Applicant admits the allegations of Paragraph 10.

11. Applicant admits the allegations of Paragraph 11.

12. Applicant admits the allegations of Paragraph 12.

13. Applicant denies the allegations of Paragraph 13.

14. Applicant denies the allegations of Paragraph 14.

15. Applicant denies the allegations of Paragraph 15.

16. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of Paragraph 16 of the Notice of Opposition and therefore denies the same.

17. Applicant denies the allegations of Paragraph 17, except that Dunhill states Opposer's use of its alleged trademarks disCOUNT FULL FLAVOR D and disCOUNT LITTLE CIGARS D is likely to cause confusion with Dunhill's trademark rights in its D logo device as alleged in trademark Opposition Nos. 91192141 and 91193702.

18. Applicant denies the allegations of Paragraph 18.

19. Applicant denies the allegations of Paragraph 19

20. Applicant denies the allegations of Paragraph 20.

#### **AFFIRMATIVE DEFENSES**

1. Opposer has failed to state a claim for which relief may be granted.

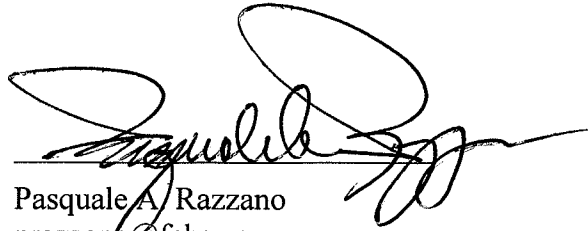
2. Opposer's alleged rights, if any, are limited to the Indian Reservations on which her alleged use took place.

3. Opposer's use of its alleged marks off of such Indian Reservations is illegal.

4. Opposer is guilty of unclean hands and is estopped from opposing Applicant's registration application because of her infringement of Applicant's marks as alleged in Opposition Nos. 91192141 and 91193702.

WHEREFORE, Applicant requests that this Board dismiss the Opposition herein with prejudice and grant such other and further relief as this Board deems just and proper.

Dated: November 4, 2010



Pasquale A. Razzano  
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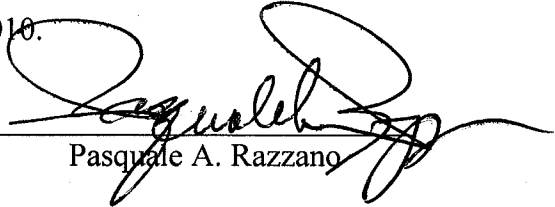
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES was served via first class mail on Eugene Berman, Esq., Law Offices of Eugene Berman, 26 Cedarwood Court, Rockville, MD 20852, this 4<sup>th</sup> day of November, 2010.

  
Pasquale A. Razzano