

ESTTA Tracking number: **ESTTA419651**

Filing date: **07/13/2011**

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

Proceeding	91199264
Party	Defendant Overstock.com, Inc.
Correspondence Address	ALAN J HOWARTH CLAYTON HOWARTH & CANNON PC PO BOX 1909 SANDY, UT 84091 UNITED STATES ahowarth@chcpat.com, wlang@chcpat.com, jallen@chcpat.com, docketclerk@chcpat.com
Submission	Answer
Filer's Name	Alan J. Howarth
Filer's e-mail	ahowarth@chcpat.com, wlang@chcpat.com, jserassio@chcpat.com, docketclerk@chcpat.com
Signature	/Alan J. Howarth/
Date	07/13/2011
Attachments	Answer.pdf (5 pages)(152295 bytes)

ALAN J. HOWARTH
WESLEY M. LANG
CLAYTON, HOWARTH & CANNON, P.C.
P.O. Box 1909
Sandy, Utah 84091-1909
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

TRADEMARK
Attorney Docket No. T12352.1

Attorneys for Applicant
OVERSTOCK.COM, INC.
Opposed Marks: CLUB O, O GOLD, CLUB O REWARD
DOLLARS, CLUB O REWARDS
U.S. Application Nos. 85/074,947; 85/118,114;
85/118,933; 85/119,015

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

BIG O TIRES, LLC.)	
)	
)	
Opposer,)	
)	ANSWER
v.)	
)	
OVERSTOCK.COM, INC.)	Opposition No. 91199264
)	
Applicant.)	
)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Applicant, Overstock.com, Inc. ("Overstock"), through its counsel, hereby answers the Notice of Opposition filed in this action by Big O Tires, LLC ("Opposer").

In response to the preamble introductory paragraph in the Notice of Opposition, Overstock denies that Opposer will be damaged by registration of the mark shown in Applications Nos. 85/074,947; 85/118,114; 85/118,933; and 85/119,015.

In response to the specifically numbered paragraphs set forth in the Notice of Opposition, Overstock hereby responds as follows:

1. Overstock lacks sufficient information to either admit or deny the allegations contained in paragraph 1 of the Notice of Opposition and therefore denies the same.
2. Overstock lacks sufficient information to either admit or deny the allegations contained in paragraph 2 of the Notice of Opposition and therefore denies the same.
3. Overstock lacks sufficient information to either admit or deny the allegations contained in paragraph 3 of the Notice of Opposition and therefore denies the same.
4. Overstock lacks sufficient information to either admit or deny the allegations contained in paragraph 4 of the Notice of Opposition and therefore denies the same.
5. Overstock admits the allegations contained in paragraph 5 of the Notice of Opposition.
6. Overstock admits the allegations contained in paragraph 6 of the Notice of Opposition.
7. Overstock admits the allegations contained in paragraph 7 of the Notice of Opposition.
8. Overstock admits the allegations contained in paragraph 8 of the Notice of Opposition.
9. Overstock denies the allegations contained in paragraph 9 of the Notice of Opposition.
10. Overstock denies the allegations contained in paragraph 10 of the Notice of Opposition.

11. Overstock denies the allegations contained in paragraph 11 of the Notice of Opposition.
12. Overstock denies the allegations contained in paragraph 12 of the Notice of Opposition.
13. Overstock admits the allegations contained in paragraphs 5-8 of the Notice of Opposition and denies the allegations contained in paragraphs 1-4 and 9-12 of the Notice of Opposition.
14. Overstock denies the allegations contained in paragraph 14 of the Notice of Opposition.
15. Overstock denies the allegations contained in paragraph 15 of the Notice of Opposition.
16. Overstock denies the allegation contained in paragraph 16 of the Notice of Opposition that Opposer will be damaged by the registrations by Overstock of the marks, as set forth in the Application Serial Nos. 85/074,947; 85/118,114; 85/118,933 and 85/119,015.
17. Overstock denies the allegations contained in paragraph 17 of the Notice of Opposition.

In response to the ultimate paragraph in the Notice of Opposition, in which Opposer presents its prayer for relief, Overstock denies that Opposer will be damaged by registration of the marks shown in Application Serial Nos. 85/074,947; 85/118,114; 85/118,933 and 85/119,015.

WHEREFORE, Overstock prays:

1. That the Notice of Opposition be denied in its entirety, with prejudice.
2. That a registration on the Principal Register issue to Overstock for the mark set forth in Application Serial Nos. 85/074,947; 85/118,114; 85/118,933 and 85/119,015.

DATED this 13th day of July, 2011.



Alan J. Howarth
Wesley M. Lang
Attorneys for Applicant

Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, Utah 84091
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

AJH/WML/

S:\CHC Files\T12--\T123-\T12352\Answer.ajh.wpd

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing ANSWER was served on Opposer by mailing a true copy thereof to its attorney of record, by first class mail, postage prepaid, this 13th day of July, 2011, in an envelope addressed as follows:

Marsha G. Gentner
Matthew Cuccias
JACOBSON HOLMAN PLLC
The Jenifer Building
400 Seventh Street, N.W., Suite 600
Washington, D.C. 20004-2218
Counsel for Opposer


