

ESTTA Tracking number: **ESTTA471979**

Filing date: **05/11/2012**

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

Proceeding	91200124
Party	Defendant Jan Jay Rigney
Correspondence Address	JAN JAY RIGNEY 11880 E 86TH ST N OWASSO, OK 74055-2535 iplaw@gablelaw.com, aedwards@gablelaw.com
Submission	Answer
Filer's Name	Alicia J. Edwards
Filer's e-mail	iplaw@gablelaw.com, aedwards@gablelaw.com
Signature	/Alicia J. Edwards/
Date	05/11/2012
Attachments	answer.pdf (4 pages)(91779 bytes)

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


KEEN, INC.)	
)	
OPPOSER)	
)	Opposition No. 91200124
v.)	Serial No. 85/077,738
)	
JAN JAY RIGNEY)	
)	
APPLICANT)	

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

Jan Jay Rigney (“Applicant”) hereby answers the numbered paragraphs of the Notice of Opposition against its Application Serial No. 85/077,738 as follows:


1. Applicant lacks information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
2. Applicant lacks information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
3. Applicant lacks information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
4. Applicant admits that Opposer filed U.S. Trademark Application No. 85/203,324




for  in International Class 25 with the U.S. Patent and Trademark Office on December 21, 2010. Applicant lacks information sufficient to form a belief as to the truth of whether Opposer has any common law rights in its mark.

5. Applicant lacks information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.

6. Applicant lacks information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.

7. Applicant admits that he filed U.S. Trademark Application No. 85/077,738 for  on July 3, 2010, and that the mark was published for opposition in the Official Gazette on December 7, 2010. Applicant lacks information sufficient to form a belief as to the truth of

whether Opposer has rights in and to its  mark.

8. Applicant admits the allegations.

9. Applicant denies the allegations.

10. Applicant lacks information sufficient to form a belief as to when Opposer may have established common law rights and therefore denies the allegation.

11. Applicant admits that U.S. Registration No. 2,514,607 was cancelled on September 5, 2008, for failure to file an acceptable declaration under Section 8. Applicant denies that its other trademark rights have expired.

12. Applicant denies the allegations.


AFFIRMATIVE DEFENSES

1. The Applicant's mark and the Opposer's mark are not identical nor are they confusingly similar.

2. The Applicant's goods are not related to the Opposer's goods for which Opposer



uses and has registered or applied to register its mark.

3. Applicant began using his  mark in interstate commerce on October 23, 2000, while Opposer did not begin using its mark in interstate commerce until January 1, 2004.

PRAYER FOR RELIEF

Applicant requests that the Trademark Trial and Appeal Board find the Opposer's case deficient and grant the allowance of Applicant's trademark application.

DATED: May 11, 2012

Respectfully submitted,

By: *Alicia J. Edwards*
Frank J. Catalano, Reg. #25836
Alicia J. Edwards, Reg. #60555
GABLE & GOTWALS
100 West Fifth Street
Tulsa, OK 74103-4217
Telephone: (918) 595-4801
Facsimile: (918) 595-4990
E-mail: iplaw@gablelaw.com
ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER was served by first-class mail and by email upon the following on May 11, 2012:

B. Anna McCoy
Alleman Hall McCoy Russell & Tuttle LLP
806 SW Broadway, Suite 600
Portland, OR 97205
anna@ahmrt.com

Alicia J. Edwards

Alicia J. Edwards