

ESTTA Tracking number: **ESTTA426355**

Filing date: **08/22/2011**

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

Proceeding	91200640
Party	Defendant Strategic Marks, LLC
Correspondence Address	Ellia Y Kassoff Strategic Marks, LLC 25 Ridgeview Irvine, CA 92603  kassoff@strategicmarks.com
Submission	Answer
Filer's Name	Christopher Ditico
Filer's e-mail	cdditico@rajpatent.com, trademarks@rajpatent.com, raj@rajpatent.com
Signature	/Christopher Ditico/
Date	08/22/2011
Attachments	2011-08-22-ANSWER-91200640-BULLOCKS.pdf ( 6 pages )(656168 bytes )

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

<p><b>Macy's, Inc.,</b></p> <p style="text-align:center"><b>Opposer</b></p> <p style="text-align:center"><b>Vs</b></p> <p><b>Strategic Marks, LLC.</b></p> <p style="text-align:center"><b>Applicant</b></p>	<p><b>Opposition No. 91200640</b></p> <p><b>Marks: BULLOCK'S DEPARTMENT STORE</b></p> <p><b>Serial No. 85136164</b></p> <p><b>Published: March 15, 2011</b></p>
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**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION**

Applicant Strategic Marks, LLC, ("Applicant" or "Strategic Marks") through its undersigned attorneys, submits its Answer to the Notice of Opposition ("Opposition") filed by Macy's, Inc., ("Opposer" or "Macy's") dated 7/12/2011 as follows:

1. Applicant denies the allegations contained in paragraph 1.
2. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 2 and therefore denies such allegations.
3. Applicant denies the allegations contained in paragraph 3 alleging that "the BULLOCK'S Mark and the goodwill associated therewith are of inestimable value to Opposer." Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in paragraph 3 and therefore denies such allegations.
4. Applicant denies the allegations contained in paragraph 4 alleging that the products and services offered under the Mark are immediately identified by the purchasing

public “with a single, albeit anonymous source, namely, Opposer.” Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in paragraph 4 and therefore denies such allegations.

5. Applicant admits that Opposer is not currently offering goods or services under the BULLOCK’S mark. Applicant denies all other allegations contained in paragraph 5.

6. Applicant admits that they filed US Serial No. 85136164 for the mark BULLOCK'S DEPARTMENT STORE in connection with “Retail department store and on-line retail department store services; retail and on-line retail clothing boutiques; retail and on-line retail clothing stores; retail and on-line retail apparel stores; retail and on-line retail store services featuring clothing and fashion accessories.” in International Class 35. Applicant denies all other allegations contained in paragraph 6.

7. Applicant admits the allegations contained in paragraph 7.

8. Applicant denies the allegations contained in paragraph 8.

9. Applicant denies the allegations contained in paragraph 9.

10. Applicant admits that they were aware of prior, but currently abandoned, uses of the BULLOCK’S mark. Applicant denies all other allegations contained in paragraph 10.

11. Applicant denies the allegations contained in paragraph 11.

12. Applicant repeats and reasserts their responses to the preceding paragraphs realleged by Opposer in paragraph 12.

13. Applicant denies the allegations contained in paragraph 13.

14. Applicant denies the allegations contained in paragraph 14.

15. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 15 and therefore denies such allegations.

16. Applicant denies the allegations contained in paragraph 16.
17. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 17 and therefore denies such allegations.
18. Applicant admits that neither Mr. Bullock nor Opposer are connected with the activities performed by Applicant in connection with US Serial No. 85136164. Applicant denies all other allegations contained in paragraph 18.
19. Applicant denies the allegations contained in paragraph 19.
20. Applicant denies the allegations contained in paragraph 20.
21. Applicant admits that they were aware of prior, but currently abandoned, uses of the BULLOCK'S mark. Applicant denies all other allegations contained in paragraph 21.
22. Applicant denies the allegations contained in paragraph 22.
23. Applicant repeats and reasserts their responses to the preceding paragraphs realleged by Opposer in paragraph 23.
24. Applicant denies the allegations contained in paragraph 24.
25. Applicant denies the allegations contained in paragraph 25.
26. Applicant admits that, in addition to US Serial No. 85136164, they filed nine other intent to use trademark applications with the USPTO for the application serial numbers and services listed in paragraph 26. Applicant denies all other allegations contained in paragraph 26, including Opposer's reference to "the Infringing Application."
27. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in paragraph 27 and therefore denies such allegations.
28. Applicant admits that they have yet to offer in interstate commerce the services as listed in US Serial No. 85136164 and the other nine intent-to use applications, insofar as they are

still intent-to-use applications. Applicant denies all remaining allegations contained in paragraph 28, including Opposer's allegation that "Applicant's lack of bona fide intent to use the Infringing Mark is further illustrated by" Applicant's lack of offering of services in interstate commerce.

29. Applicant denies the allegations contained in paragraph 29.

30. Applicant denies the allegations contained in paragraph 30.

#### **Affirmative Defenses**

1. Opposer has failed to state a claim upon which relief may be granted.
2. Insofar as Opposer claims or alleges any rights to the BULLOCK'S Mark, Opposer's claims are precluded because the marks and rights allegedly owned or claimed by Opposer have been abandoned.
3. Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves the right to amend this Answer to assert any such defenses.

Dated: August 22, 2011

Respectfully submitted,



Chris Ditico  
Raj Abhyanker  
Raj Abhyanker, P.C.  
1580 W. El Camino Real, Suite 8  
Mountain View, CA 94040  
Phone: (650) 965-8731

Fax: (650) 989-2131  
Attorneys for Applicant

**CERTIFICATE OF SERVICE**

I certify that, on the 22th day of August 2011, a true copy of the foregoing  
**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION** is being served by facsimile and  
mailing a copy thereof by certified mail to:

HOLLY PEKOWSKY  
AMSTER ROTHSTEIN EBENSTEIN LLP  
90 PARK AVENUE  
NEW YORK, NY 10016  
UNITED STATES  
FAX: 212-336-8001

AND

MACY'S, INC.  
7 WEST SEVENTH STREET  
CINCINNATI, OH 45202  
United States

By 

Chris Ditico, Esq.  
Raj Abhyanker, P.C.  
1580 W. El Camino Real, Suite 8  
Mountain View, CA 94040  
Phone: (650) 965-8731  
Fax: (650) 989-2131  
Attorneys for Applicant