ESTTA Tracking number: **ESTTA470822**

Filing date: **05/04/2012**

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

Proceeding	91202418
Party	Defendant Alley, Ryan E
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Date	05/04/2012
Attachments	2012-05-04 Answer.pdf (6 pages)(178442 bytes)

TRADEMARK

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

Proceeding:	Innovation Law Group, Ltd., Opposer v. Ryan E. Alley, DBA Ryan Alley Intellectual Property Law, Applicant
Opposition No.:	91202418
Serial No:	85/342,228
Mark:	BUILDING ASSETS FROM IDEAS
Attorney Docket:	1.0001.1

Filed via ESTTA May 4, 2012

APPLICANT'S ANSWER

Applicant, Ryan E. Alley, doing business as Ryan Alley Intellectual Property Law, a sole proprietorship, in answer to the Notice of Opposition filed by Innovation Law Group, Ltd. against application for registration of Applicant's service mark "Building Assets from Ideas," Serial Number 85/342,228, pleads and avers as follows:

1. As to Paragraph 1 of the Notice of Opposition, Applicant DENIES seeking registration of a mark in IC 042. Applicant alleges that mark "Building Assets from Ideas" having Serial Number 85/342,228 is filed in International Class 045. The remainder of Paragraph 1 is ADMITTED.

2. As to Paragraph 2 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief regarding Opposer's continuous use of the identified marks and accordingly DENIES the allegations.

3.1. As to Paragraph 3, First (the Notice of Opposition contains two paragraphs labeled "3") of the Notice of Opposition, Applicant DENIES that the identified marks relate to the same services performed for the same class of clients in the same channels of commerce as Applicant. The remainder of Paragraph 3, First is ADMITTED.

3.2. As to Paragraph 3, Second of the Notice of Opposition, Applicant DENIES that the identified marks relate to the same services performed for the same class of clients in the same channels of commerce as Applicant's "transfer and enforcement." The remainder of Paragraph 3, Second is ADMITTED.

4. As to Paragraph 4 of the Notice of Opposition, Applicant ADMITS the allegations thereof.

5. As to Paragraph 5 of the Notice of Opposition, Applicant DENIES that the services, channels of trade, and type of customer of Applicant and Opposer are the same or identical. Applicant does not have sufficient knowledge or information to form a belief regarding Opposer's historical residences and legal practices and accordingly DENIES the remaining allegations of Paragraph 5.

6. As to Paragraph 6 of the Notice of Opposition, Applicant DENIES that Opposer would be damaged by Applicant's use and registration of the mark "Building Assets

from Ideas." Applicant affirmatively alleges that he had no contact with or knowledge of Opposer or his practice and marks prior to Opposer contacting Applicant in July 2011, and Applicant does not have sufficient knowledge or information to form a belief regarding any other use of and goodwill underlying Opposer's identified marks and services and accordingly DENIES the remaining allegations of Paragraph 6.

7. As to Paragraph 7 of the Notice of Opposition, Applicant ADMITS that Applicant's and Opposer's marks differ by at least word order, preposition, and gerund. Applicant DENIES the remaining allegations of Paragraph 7.

8. As to Paragraph 8 of the Notice of Opposition, Applicant DENIES that "building" is the equivalent of "transforming," that Applicant's mark misappropriates the underlying sense of, uses essential terms of, conveys the precise terms used in, or is so similar so as to likely cause confusion with, Opposer's Registrations. Applicant notes that the titled "Exhibit 5" and "Exhibit 6" are not in evidence per 37 C.F.R. § 2.122(c), and Applicant does not have sufficient knowledge or information to form a belief regarding the remaining allegations and accordingly DENIES the remaining allegations of Paragraph 8.

9. As to Paragraph 9 of the Notice of Opposition, Applicant DENIES that Opposer has priority of actual use in commerce of "Ideas Are Assets" as a trademark. Applicant DENIES the identified marks are for essentially identical services compared to

Applicant's intent to use. Applicant does not have sufficient knowledge or information to form a belief regarding the reach of Opposer's website and promotional budgets and accordingly DENIES the remaining allegations of Paragraph 9.

10. As to Paragraph 10 of the Notice of Opposition, Applicant ADMITS that Opposer and Applicant corresponded on cease and desist matters. Applicant DENIES the remaining allegations of Paragraph 10. Applicant affirmatively alleges that he had no contact with or knowledge of Opposer or his practice and marks prior to Opposer contacting Applicant in July 2011, and Applicant further affirmatively alleges that Opposer has never had any reasonable basis for believing that Applicant violated a federal criminal fraud statute or had bad faith intent in seeking registration and that Opposer's allegations to this effect have no likelihood of ever having evidentiary support.
11. As to Paragraph 11 of the Notice of Opposition, Applicant ADMITS that Applicant's services are promoted under a separate trade identity; ADMITS that Opposer suggested Applicant pick another mark; and ADMITS that Applicant uses the slogans "World Class IP Services" and "Individualized Focus" on his website www.alleylegal.com. Applicant DENIES the remaining allegations Paragraph 11.
12. As to Paragraph 12 of the Notice of Opposition, Applicant DENIES the allegations thereof.

13. Applicant affirmatively alleges that no actual or likelihood of confusion exists between Opposer's identified marks and Applicant's mark Building Assets from Ideas. Opposer's marks are weak and nearly descriptive. Where Opposer's marks have any suggestive and thus protectable aspects, they are markedly different from Applicant's mark. Opposer's marks operate in a marketplace populated by sophisticated consumers awash with third-party registrations and uses considerably closer in wording and meaning to Opposer's marks than Applicant's mark. Moreover, the channels of commerce for, and means of procuring, intellectual property services are so overwhelmingly personal and name-driven so as to prevent Opposer's and Applicant's slogans from causing confusion between service providers in this field. Lastly, Opposer has not properly plead, and thus cannot establish, any fame underlying Opposer's marks, such that, combined with the stark differences between Applicant's and Opposer's marks, no dilution exists.

Accordingly, Applicant respectfully requests that the Opposition be dismissed.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing Applicant's Answer has been served on Innovation Law Group, Ltd. by mailing said copy on May 4, 2012, via First Class Mail, postage prepaid to:

Mr. Neil D. Greenstein, Esq.
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Signed,

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