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

Proceeding	91203686
Party	Defendant Chateau Celeste, Inc.
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Date	02/07/2013
Attachments	2013-2-7-Chateau Celeste's Opposition to Motion to Strike Affirmative Defenses.pdf (3 pages)(24069 bytes)

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
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HOLLYWOOD CASINO CORPORATION,)	In Re Application of Chateau Celeste, Inc.
)	Mark: HOLLYWOOD HOTEL
Opposer,)	Ser. No. 85/281,324
)	Filed: March 30, 2011
v.)	Published: August 9, 2011
)	
CHATEAU CELESTE, INC.,)	Opposition No. 91203686
Applicant.)	
_____)	

Attn: TTAB
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT’S OPPOSITION TO MOTION TO STRIKE AFFIRMATIVE DEFENSES

Chateau Celeste, Inc. (“Applicant”), through its attorneys, hereby submits its opposition to the “Motion to Strike Applicant’s Affirmative Defenses” filed on January 23, 2013 by Hollywood Casino Corporation (“Opposer”) in the above-identified proceeding.

I. Opposer’s Motion to Strike Should Be Denied As Untimely

The TTAB’s governing rules require that in situations where a responsive pleading is not required, a motion to strike matter from the non-moving party’s pleading must be filed within 21 days after service upon the moving party of the pleading that is the subject of the motion to strike. Fed. R. Civ. P. 12(f); TBMP § 506.02.

In this case, the “Notice of Opposition” was filed on February 6, 2012, and “Applicant’s Answer to Notice of Opposition” was timely filed and electronically served (by prior agreement) on September 13, 2012. Thus, any motion to strike affirmative defenses were due by October 4, 2012. However, Opposer’s Motion to Strike the affirmative defenses was filed on January 23, 2013, over

three and a half months after the deadline. Opposer has never sought the consent of Applicant or leave from the Board to file the instant Motion to Strike after the applicable deadline. Moreover, Opposer has not even attempted to offer good cause, and good cause does not exist, for its late filing of the instant Motion to Strike. As such, Opposer's Motion to Strike should be denied as untimely.

II. Opposer's Request for Suspension of the Opposition Proceeding

In its Motion to Strike, Opposer has requested the Board to suspend the proceedings pending the disposition of said motion. Applicant concurs with that specific request.

III. Conclusions

In view of the foregoing, "Opposer's Motion to Strike Applicant's Affirmative Defenses" should be denied on grounds that it is untimely, and that there is no good cause for its late filing. In the event that the Board decides to overlook the untimeliness of Opposer's Motion to Strike and hear said motion, Applicant requests that it be provided with a reasonable time and opportunity to file a response regarding the substance of said motion.

In addition, Applicant concurs with Opposer's request for the Board to suspend this opposition proceeding pending the disposition of Opposer's Motion to Strike.

Dated: February 7, 2013

/Kamran Fattahi/
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Attorneys for Applicant,
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CERTIFICATE OF SERVICE

As counsel for Applicant, I hereby certify that I caused a true and correct copy of APPLICANT'S OPPOSITION TO MOTION TO STRIKE AFFIRMATIVE DEFENSES (In Re TTAB Opposition No. 91203686) to be served on this date via e-mail (pursuant to prior agreement between counsel for the parties), upon counsel for Opposer at the following e-mail addresses:

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Dated: February 7, 2013

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