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

Proceeding	91203821
Party	Defendant THE TRUSTESS OF CUBESMART
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Date	03/23/2012
Attachments	CubeSmart_s Answer to SMARTTRAKR Opposition.pdf (4 pages)(24210 bytes)

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

SMARTRAC IP B.V.,

Opposer,

v.

THE TRUSTEES OF CUBESMART,

Applicant.

Opposition No. 91203821


Mark:

SmartTrakr 

App. No. 85/391,789

**APPLICANT THE TRUSTEES OF CUBESMART'S
ANSWER TO NOTICE OF OPPOSITION**

Applicant The Trustees of CubeSmart (“Applicant”) hereby answers and responds to the Notice of Opposition (“Notice”) of Opposer Smartrac IP B.V. (“Opposer”) as follows:

Introductory Paragraph: In response to the unnumbered introductory paragraph of the Notice, Applicant admits that it filed an application for the **SmartTrakr**  (“SMARTTRAKR & Design”) mark and that the application was assigned Application Serial No. 85/391,789 and was published on January 17, 2012. Applicant denies that Opposer will be damaged by registration of Application Serial No. 85/391,789. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and, on that basis, denies them.

Paragraph 1: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Notice and, on that basis, denies them.

Paragraph 2: Applicant admits the allegations in Paragraph 2 of the Notice.

Paragraph 3: Applicant denies that Paragraph 3 of the Notice is an accurate list of the goods covered by U.S. Registration No. 3302678. Applicant is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 3 of the Notice and, on that basis, denies them.

Paragraph 4: Applicant admits the allegations in Paragraph 4 of the Notice.

Paragraph 5: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Notice and, on that basis, denies them.

Paragraph 6: Applicant denies the allegations in Paragraph 6 of the Notice.

Paragraph 7: Applicant denies the allegations in Paragraph 7 of the Notice.

Paragraph 8: The allegations in Paragraph 8 of the Notice constitute conclusions of law or legal argument to which no responsive pleading is necessary and, on that basis, Applicant denies them.

Paragraph 9: Applicant admits the allegations in Paragraph 9 of the Notice, but denies the allegation to the extent that it implies, incorrectly, that Opposer's consent or permission is required for Applicant to use or register the SMARTTRAKR & Design mark.

Conclusion Paragraph: In response to the unnumbered conclusion paragraph following Paragraph 9 of the Notice, Applicant denies the allegations.

ADDITIONAL DEFENSES

Without prejudice to the denials set forth in its Answer to Opposer's Notice and without admitting any allegations in the Notice not otherwise admitted, Applicant avers and asserts the following Additional Defenses to Opposer's claims:

1. Opposer's claims are barred because Opposer fails to state a claim upon which relief can be granted.
2. There is no likelihood of confusion between Opposer's SMARTRAC mark and Applicant's SMARTTRAKR & Design mark.

3. Applicant will rely on any and all other valid defenses that may be developed through discovery and/or the testimony periods in this proceeding.

WHEREFORE, having fully answered the claims in the Notice, Applicant respectfully requests that the Notice be dismissed with prejudice in all respects.

Dated: March 23, 2012

Respectfully submitted,

By: /Jordana S. Rubel/

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