ESTTA Tracking number: **ESTTA536522**

Filing date: **05/07/2013**

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

Proceeding	91209978
Party	Defendant Laham, Joseph
Correspondence Address	JOSEPH LAHAM 2140 OCEAN PKWY BROOKLYN, NY 11223-4829 joey@axapparel.com
Submission	Answer
Filer's Name	Morris Fateha
Filer's e-mail	morrisfateha@gmail.com
Signature	/Morris Fateha/
Date	05/07/2013
Attachments	answer_2[1].pdf(104671 bytes)

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

TISSOT SA	)	
	)	
Opposer	)	
	)	
V.	)	Opposition No. 91209978
	)	
JOSEPH LAHAM	)	
	)	
Registrant	)	
	)	

APPLICANT'S ANSWER
TO NOTICE OF OPPOSITION, AND AFFIRMATIVE DEFENSES

Applicant, JOSEPH LAHAM ("LAHAM"), for his answer to the Notice of Opposition filed by TISSOT SA ("TISSOT") against application for registration of Laham's trademark I-TOUCH , Serial No. 85637640 filed May 29, 2012, and published in the Official Gazette of November 27, 2012 (the "Mark"), pleads and avers as follows:

1. Applicant denies knowledge and information sufficient to admit or deny the allegations of paragraph 1.

2. Applicant denies knowledge and information sufficient to admit or deny the allegations of paragraph 2.

3. Applicant denies knowledge and information sufficient to admit or deny the allegations of paragraph 3.

4. Applicant denies each and every allegation contained in Paragraph 4.

5. Applicant denies each and every allegation contained in Paragraph 5.

6. Applicant denies each and every allegation contained in Paragraph 6.

7. Applicant denies each and every allegation contained in Paragraph 7.

8. Applicant denies each and every allegation contained in Paragraph 8.

9. Applicant denies knowledge and information sufficient to admit or deny the allegations of paragraph 9.

10. Applicant denies each and every allegation contained in Paragraph 10.

11. Applicant denies each and every allegation contained in Paragraph 11.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Opposer fails to state a claim upon which relief can be granted.

Second Affirmative Defense

As a result of Applicant's continuous use of the Mark since the time of Applicant's adoption thereof, the Mark has developed significant goodwill among the consuming public and consumer acceptance of the services offered by Applicant in conjunction with the Mark. Such goodwill and widespread usage has caused the Mark to acquire distinctiveness with respect to Applicant, and caused the Mark to become a valuable asset of Applicant.

Third Affirmative Defense

There is no likelihood of confusion, mistake or deception because, inter alia, the Mark and the alleged trademark of Opposer are not confusingly similar.

Fourth Affirmative Defense

Alternatively, any similarity between the Mark and Opposer's alleged trademark is restricted to that portion of the Mark consisting of the word "TOUCH," which is not distinctive. As a result, under the antidissection rule any secondary meaning Opposer may have in its alleged T-TOUCH watches trademark is narrowly circumscribed to the exact trademark alleged and does not extend to any other feature of the trademark beyond the word

"T TOUCH."

Fifth Affirmative Defense

Opposer's rights in and to the portion of its alleged T-TOUCH watches trademark are Generic or, in the alternative, merely descriptive of the goods or services offered under the mark. Opposer's alleged mark is therefore inherently unprotectable absent acquired distinctiveness, which the alleged T-TOUCH mark lacks. Opposer's alleged T-TOUCH trademark is a generic reference to the services offered under the mark, i.e., "TOUCH" with the theme of being in touch with the weather forecasts.

Sixth Affirmative Defense

Applicant has been using the Mark and developing consumer recognition and goodwill therein since at least December 1, 2009, such use being open, notorious and known to Opposer and such knowledge, in turn, being known to Applicant. During this time, Opposer failed to take meaningful action to assert the claims on which it bases this Opposition, on which inaction Applicant has relied to its detriment. Opposer's claims are consequently barred by the doctrines of laches, acquiescence and estoppel.

WHEREFORE, Registrant prays that the Notice of Opposition be dismissed with prejudice.

Respectfully submitted,

Dated: May 6, 2013

By: _____/S/_____

Morris Fateha, Esq.
LAW OFFICE OF MORRIS FATEHA, P.C.
Attorneys for Applicant
911 Avenue U
Brooklyn, New York 11223
Tel. (718) 627-4600

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing registrant's answer to the Notice of Opposition was served on counsel for Opposer, this 6th day of May, 2013, by sending the same via First Class Mail service, to

COLLEN IP
80 South Highland Avenue
Ossining on Hudson, NY 10562

_____/S/_____
Morris Fateha, Esq.
Attorneys for Applicant