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

Proceeding	91212302
Party	Defendant Tropical Systems & Design, Inc
Correspondence Address	TROPICAL SYSTEMS & DESIGN, INC TROPICAL SYSTEMS & DESIGN, INC 4689 SW 72ND AVE MIAMI, FL 33155-4540 dzapata@rscapes.com
Submission	Answer
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Date	10/14/2013
Attachments	Answer_to_Opposition_SANTA_MARGHERITA 101413.pdf(28199 bytes)

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

SANTA MARGHERITA S.p.A.,)	
)	Opposition No.: 91212302
Opposer,)	
)	
v.)	Serial No.: 85/801,455
)	
TROPICAL SYSTEMS & DESIGN, INC.)	
)	Mark: VITA SANTA
Applicant.)	MARGHERITA TOSCANA
)	YOU CAN NEVER HAVE
_____)	TOO MUCH LIFE

APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSE

TO OPPOSER’S NOTICE OF OPPOSITION

Attention: TTAB
Commission for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Applicant, Tropical Systems & Design, Inc. (hereinafter the “Applicant”), hereby files its Answer and Affirmative Defenses to the Notice of Opposition filed on September 4, 2013, by Santa Margherita, S.p.A. (hereinafter the “Opposer”) and alleges that the Opposition should be dismissed.

In response to Opposer’s allegations, Applicant alleges as follows:

- 1.** Applicant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 1 of the Opposition; therefore, same is denied.

2. Admitted that Opposer is the owner of record, according to USPTO records available over the Internet, of Registration Nos. 1,300,876, 3,407,820, 3,413,153, 3,522,587, 3,862,715, 4,008,598, 4,008,562, and 4,317,519.

3. Denied.

4. Admitted.

5. Applicant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 5 of the Opposition; therefore, same is denied.

6. Applicant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 6 of the Opposition; therefore, same is denied.

7. Applicant is without knowledge sufficient to form a belief as to the truth or falsity of the allegations of paragraph 7 of the Opposition; therefore, same is denied.

8. Admitted.

9. Admitted.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

14. Admitted.

15. Denied.

AFFIRMATIVE DEFENSES

- 16.** Opposer's Notice of Opposition fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds sustaining the Opposition.
- 17.** Applicant's use of the term SANTA MARGHERITA is as a required appellation, and its use in the application is not trademark use.
- 18.** Since the location SANTA MARGHERITA is an agricultural hamlet in Tuscany, and SANTA MARGHERITA is the location where the Applicant's wine is made, Opposer is estopped from preventing Applicant from using the term SANTA MARGHERITA.
- 19.** Opposer's marks contain the geographic term SANTA MARGHERITA. The term SANTA MARGHERITA conveys to customers an immediate geographical connotation. Purchasers are likely to make a goods-place association and believe that Opposer's goods originate in the geographic place identified in the marks. Geographic terms are not registrable as trademarks if they are geographically descriptive of where the goods originate.
- 20.** Applicant's use of its marks will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization and/or approval.
- 21.** Applicant's mark, when used with Applicant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with the Opposer, or as to the origin, sponsorship or approval of Applicant's goods by Opposer.
- 22.** Applicant hereby reserves the right that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

WHEREFORE, Applicant respectfully requests the Board reject and dismiss the Opposition, permit the registration of Applicant's proposed mark in U.S. Trademark Application Serial No. 85/801,455, and grant such other and further relief as the Board deems just and appropriate

RESPECTFULLY SUBMITTED this 14th day of October, 2013.

Respectfully submitted,

/Joseph R. Englander/
Joseph R. Englander
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ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the Applicant's Answer and Affirmative Defenses to Opposer's Notice of Opposition has been furnished by U.S. Mail and E-mail delivery to E. Anthony Figg <efigg@rfem.com>, Leo M. Loughlin <lloughlin@rfem.com>, Attorneys for the Opposer, Rothwell, Figg, Ernst, & Manbeck, P.C., 607 14th Street, N.W. 8th Floor, Washington, DC 20005, on 14th day of October, 2013.

Respectfully submitted,

/Joseph R. Englander/_____
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