

ESTTA Tracking number: **ESTTA592187**

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

Proceeding	91212778
Party	Defendant James Lee
Correspondence Address	ERIC S HYMAN BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 12400 WILSHIRE BOULEVARD, SEVENTH FLOOR LOS ANGELES, CA 90025 UNITED STATES pete_bromaghim@bstz.com, garbo_tat@bstz.com, tm_filings@bstz.com, eric.hyman@bstz.com, alexis_karriker@bstz.com
Submission	Answer
Filer's Name	Pete Bromaghim
Filer's e-mail	pete_bromaghim@bstz.com, garbo_tat@bstz.com, tm_filings@bstz.com, eric.hyman@bstz.com, alexis_karriker@bstz.com
Signature	/PeteBromaghim/
Date	03/12/2014
Attachments	9306.M001 Answer to Notice of Opposition.PDF(219355 bytes )



4. In answering Paragraph 4 of the Notice of Opposition, Applicant admits that his address of record on the subject trademark application is as stated.

5. In answering Paragraph 5 of the Notice of Opposition, Applicant admits that according to USPTO records, Opposer filed an extension of time to oppose the subject application on July 3, 2013, which was granted by the Trademark Trial and Appeal Board. Applicant denies any and all remaining allegations and inferences in this paragraph.

6. In answering Paragraph 6 of the Notice of Opposition, Applicant admits that the parties previously corresponded about Opposer's claims in a letter dated October 8, 2012, but denies any and all remaining allegations and inferences in this paragraph regarding the content of that correspondence or the referenced Exhibit.

7. In answering Paragraph 7 of the Notice of Opposition, Applicant admits that the parties previously corresponded about Opposer's claims in a letter dated November 27, 2012, but denies any and all remaining allegations and inferences in this paragraph regarding the content of that correspondence or the referenced Exhibit.

8. In answering Paragraph 8 of the Notice of Opposition, Applicant admits that the parties previously corresponded about Opposer's claims, but denies any and all remaining allegations and inferences in this paragraph, but denies any and all remaining allegations and inferences in this paragraph regarding the content of that correspondence or the referenced Exhibit.

9. In answering Paragraph 9 of the Notice of Opposition, Applicant specifically denies prior knowledge of the name allegedly used by Opposer, and as to remaining statements,

is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, and thus denies the same.

10. In answering Paragraph 10 of the Notice of Opposition, Applicant admits only that the filing dates and information for the subject application are correct according to USPTO records, but denies any and all remaining allegations and inferences in this paragraph regarding Opposer's alleged prior rights.

11. In answering Paragraph 11 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, and thus denies the same.

12. In answering Paragraph 12 of the Notice of Opposition, Applicant admits that an Office Action has issued on Opposer's application which states that the application may be refused registration as described, but Applicant denies any and all remaining allegations and inferences in this paragraph regarding Opposer's alleged prior rights.

13. In answering Paragraph 13 of the Notice of Opposition, Applicant denies all allegations and inferences contained within this paragraph.

### **COUNT I**

14. In answering Paragraph 14 of the Notice of Opposition, Opposer attempts to repeat and reallege all allegations above, so Applicant denies all allegations and inferences contained within this paragraph.

15. In answering Paragraph 15 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, and thus denies the same.

16. In answering Paragraph 16 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, and thus denies the same.

17. In answering Paragraph 17 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, and thus denies the same.

18. In answering Paragraph 18 of the Notice of Opposition, Applicant admits the subject application was filed on the stated date, but denies any and all remaining allegations and inferences in this paragraph regarding Opposer's alleged prior rights.

19. In answering Paragraph 19 of the Notice of Opposition, Applicant admits the subject application claims the stated first use in commerce date, but denies any and all remaining allegations and inferences in this paragraph regarding Opposer's alleged prior rights.

20. In answering Paragraph 20 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations contained therein, and thus denies the same.

21. In answering Paragraph 21 of the Notice of Opposition, Applicant denies the allegations and inferences therein, and as to those for which Applicant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations, denies the same on that basis.

22. In answering Paragraph 22 of the Notice of Opposition, Applicant denies the allegations and inferences therein, and as to those for which Applicant is without sufficient

information or knowledge to form a belief about the truthfulness of the allegations, denies the same on that basis.

23. In answering Paragraph 23 of the Notice of Opposition, Applicant denies the allegations and inferences therein, and as to those for which Applicant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations, denies the same on that basis.

24. In answering Paragraph 24 of the Notice of Opposition, Applicant denies the allegations and inferences therein, and as to those for which Applicant is without sufficient information or knowledge to form a belief about the truthfulness of the allegations, denies the same on that basis.

## **COUNT II**

25. In answering Paragraph 25 of the Notice of Opposition, Opposer attempts to repeat and reallege all allegations above, so Applicant denies all allegations and inferences contained within this paragraph

26. In answering Paragraph 26 of the Notice of Opposition, Applicant denies all allegations and inferences contained within this paragraph.

27. In answering Paragraph 27 of the Notice of Opposition, Applicant denies all allegations and inferences contained within this paragraph.

28. In answering Paragraph 28 of the Notice of Opposition, Applicant denies all allegations and inferences contained within this paragraph.

29. In answering Paragraph 29 of the Notice of Opposition, Applicant denies all allegations and inferences contained within this paragraph.

30. In answering Paragraph 30 of the Notice of Opposition, Applicant denies all allegations and inferences contained within this paragraph.

### **AFFIRMATIVE DEFENSES**

In further answer to the Notice of Opposition, without waiver of any objection or an admission of sufficiency of the Opposition, Applicant asserts upon information and belief that:

1. 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 for sustaining the opposition on either stated count.

2. Opposer is estopped from pursuing its claims by virtue of its fraud in obtaining the registration, either in Opposer's lack of use of the mark, knowledge of the use of the mark by others, lack of ownership of the mark, or other grounds.

3. Opposer is estopped from pursuing its claims for relief by virtue of the doctrine of unclean hands.

4. Opposer has waived its claims for relief in this matter by virtue of laches or acquiescence.

5. Opposer has abandoned any and all rights in the mark(s) on which it bases this Opposition.


6. Applicant reserves all affirmative defenses not stated here in the event that discovery reveals that they may be appropriate.

WHEREFORE, Applicant prays that the Opposition be dismissed and the mark be allowed to mature to registration.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: March 12, 2014

By:   
Eric S. Hyman  
Peter Bromaghim  
12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025  
(310) 207-3800

Attorneys for Applicant James Lee



**CERTIFICATE OF SERVICE**

I, Garbo Tat, hereby declare that I am employed by the law firm of BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, 12400 Wilshire Boulevard, Seventh Floor, Los Angeles, California 90025-1040; that I am over 18 years of age and not a party to the within action; and that I served the following document, Answer to Notice of Opposition on the date indicated below, by causing a true copy to be deposited in the United States Mail, first class postage prepaid to Opposer:

Mitesh Patel  
Raj Abhyanker, PC  
1580 W. El Camino Real, Suite 13  
Mountain View, CA 94040

Date: \_\_\_\_\_

3/12/2014



Garbo Tat