

ESTTA Tracking number: **ESTTA666346**

Filing date: **04/13/2015**

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

Proceeding	91218846
Party	Defendant Tri-Coastal Design Group, Inc.
Correspondence Address	TEDD S LEVINE LAW OFFICES OF TEDD S LEVINE LLC 1305 FRANKLIN AVE , STE 300 GARDEN CITY, NY 11530-1630 UNITED STATES lawofficesofteddslevine@gmail.com
Submission	Answer
Filer's Name	Tedd S. Levine
Filer's e-mail	lawofficesofteddslevine@gmail.com
Signature	/Tedd S. Levine/
Date	04/13/2015
Attachments	TM-AMENDED ANSWER TO OPPOSITION-SEASIDE-4-13-15.pdf(100567 bytes )

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

-----X  
Seaside Community Development Corp.,

Opposer,

Opposition No.: 91218846  
Serial No. 86/188,378

-v-

**AMENDED ANSWER TO  
OPPOSITION**

Tri-Coastal Design Group, Inc.

Applicant.

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Tri-Coastal Design Group, Inc. (“Tri-Coastal” or “Applicant”) hereby answers Opposer’s Opposition as follows:

1. Tri-Coastal has insufficient knowledge or information to admit or deny the allegations set forth in paragraph 1 of the Opposition and, on that basis, denies the allegations
2. Tri-Coastal has insufficient knowledge or information to admit or deny the allegations set forth in paragraph 2 of the Opposition and, on that basis, denies the allegations. Further, as to the validity and/or enforceability of the listed registrations and purported marks, Tri-Coastal objects to the allegations contained in Paragraph 2 of the Opposition as statements of legal conclusion, rather than of fact, and without waiving such objection Tri-Coastal denies such allegations in Paragraph 2 of the Opposition.
3. Tri-Coastal has insufficient knowledge or information to admit or deny the allegations set forth in paragraph 3 of the Opposition and, on that basis, denies the allegations.
4. Tri-Coastal has insufficient knowledge or information to admit or deny the allegations set forth in paragraph 4 of the Opposition and, on that basis, denies the allegations.

5. Tri-Coastal has insufficient knowledge or information to admit or deny the allegations set forth in paragraph 5 of the Opposition and, on that basis, denies the allegations.

6. Tri-Coastal admits the allegations in paragraph 6 of the Opposition that it has applied to register SEASIDE for use in connection with bath gel; bath salts; bath soaps; body cream; body lotion; body oil; body powder; body scrub; body sprays; bubble bath; lip balm; lip gloss; liquid soap under serial number 86188378; Tri-Coastal denies the remaining allegations set forth in paragraph 6 of the Opposition.

7. Tri-Coastal admits the allegations in paragraph 7 of the Opposition that Tri-Coastal filed to register the mark SEASIDE under serial number 86188378 on February 8, 2014; Tri-Coastal denies the remaining allegations set forth in paragraph 7 of the Opposition.

8. Tri-Coastal hereby incorporates and re-alleges the allegations in paragraphs 1 through 7 of this Answer to the Opposition as though fully set forth herein.

**FIRST CAUSE OF ACTION**  
**Likelihood of Confusion**

9. Tri-Coastal denies the allegations in paragraph 9 of the Opposition.

10. Tri-Coastal denies the allegations in paragraph 10 of the Opposition.

11. Tri-Coastal denies the allegations in paragraph 11 of the Opposition.

12. Tri-Coastal denies the allegations in paragraph 12 of the Opposition.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

Nowhere in or otherwise attached to the Notice of Opposition does Opposer present any allegation or evidence that supports Opposer's use of SEASIDE in connection with bath & body products prior to the date Applicant filed its application for the trademark SEASIDE, which is the subject of this proceeding. In addition, the only registration cited by the Opposer in its

Notice of Opposition that Opposer suggests covers bath & body products is Opposer's registration of THE SEASIDE STYLE, Registration No. 3846308. With regard to THE SEASIDE STYLE, use of the terms "gifts" and "sundries" included in the description of the goods do not refer to nor is there any reason to suggest they refer to bath & body products. In fact, the specific goods that it does refer to are housewares, home furnishings, clothing, and shoes, none of which have any relationship to bath & body products. Furthermore, none of Opposer's other cited registrations even remotely have any connection to bath & body products. Therefore, the Opposition fails to state a claim upon which relief can be granted.

### **SECOND AFFIRMATIVE DEFENSE**

The only registration cited by the Opposer in its Notice of Opposition that Opposer suggests covers bath & body products is Opposer's registration of THE SEASIDE STYLE, Registration No. 3846308. With regard to THE SEASIDE STYLE registration, use of the ambiguous terms "gifts" and "sundries" included in the description of the goods do not refer to nor is there any reason to suggest they refer to bath & body products. In fact, the specific goods that are referred to in such registration are housewares, home furnishings, clothing, and shoes, none of which have any relationship to bath & body products. In fact, Opposer's intentional decision not to list specific bath & body products in its application for THE SEASIDE STYLE and to use only general catchall terms in its description of goods, leads third parties, including Applicant, to reasonably infer that rights will not be asserted against them when using SEASIDE in connection with bath & body products. To that end, Applicant relied on Opposer's description of the goods in its registrations when deciding to file its application for the mark SEASIDE; as a result of such reliance Applicant has now been materially prejudiced. Consequently, all of Opposer's claims and all of the relief sought for such claims are barred by the doctrine of

estoppel.

### **THIRD AFFIRMATIVE DEFENSE**

The only registration cited by the Opposer in its Notice of Opposition that Opposer suggests covers bath & body products is Opposer's registration of THE SEASIDE STYLE, Registration No. 3846308. With regard to registration for THE SEASIDE STYLE, use of the ambiguous terms "gifts" and "sundries" included in the description of the goods do not refer to nor is there any reason to suggest they refer to bath & body products. In fact, the specific goods that are referred to in such registration are housewares, home furnishings, clothing, and shoes, none of which have any relationship to bath & body products. To that end, Opposer should not be permitted to prevent Applicant from registering and using SEASIDE when Opposer intentionally and wrongfully decided not to be forthright by listing specific bath & body products in filing its application for registration of the mark THE SEASIDE STYLE; instead Opposer chose to use only general catchall terms in its description of its goods hoping that any unidentified future business activities would be covered. Such practice is improper and unethical in relation to the current opposition being filed. Thus, all of Opposer's claims are barred by the doctrine of unclean hands.

**WHEREFORE**, Tri-Coastal prays that the Opposition be dismissed in its entirety and with prejudice.

DATED: April 13, 2015

Respectfully submitted,

THE LAW OFFICES OF TEDD S. LEVINE, LLC

By:           /Tedd S. Levine

Tedd S. Levine, Esq.  
1301 Franklin Avenue, Suite 300  
Garden City, NY 11530  
Tel.: (516) 294-6852  
Fax: (516) 294-4860  
Email: [lawofficesofteddslevine@gmail.com](mailto:lawofficesofteddslevine@gmail.com)

*Attorneys for Applicant*

**CERTIFICATE OF SERVICE**

I TEDD S. LEVINE hereby certify that on the 13<sup>th</sup> day of April 2015 I served a copy of APPLICANT'S AMENDED ANSWER by email to the following:

Rochelle D. Alpert  
Morgan, Lewis & Bockius LLP  
One Market, Spear Street Tower  
San Francisco, CA 94105  
UNITED STATES  
ralpert@morganlewis.com,  
shall@morganlewis.com,sftrademarks@morganlewis.com

/Tedd S. Levine/  
Tedd S. Levine, Esq.