

ESTTA Tracking number: **ESTTA931084**

Filing date: **10/25/2018**

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

Proceeding	91238714
Party	Defendant Lockton, Inc.
Correspondence Address	CHAD W BRIGHAM GOLDEN BERG HELLER & ANTOGNOLI PC 2227 SOUTH STATE ROUTE 157 EDWARDSVILLE, IL 62025 UNITED STATES chad@ghalaw.com, jodi@ghalaw.com 202-254-6975
Submission	Answer
Filer's Name	Chad W. Brigham
Filer's email	chad@ghalaw.com, jodi@ghalaw.com
Signature	/CWB/
Date	10/25/2018
Attachments	Answer to First Amended Notice of Opposition 10 25 18.pdf(238309 bytes)

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

IN THE MATTER OF APPLICATION

Serial No.: 87/424,607

Mark: ALLUVION FLOOD INSURANCE POWERED BY LOCKTON and Design



Published: September 5, 2017

_____)	
U.S. Department of Homeland Security,)	
)	
Opposer,)	Opposition No.: 91238714
)	
v.)	
)	
Lockton, Inc.,)	
)	
Applicant.)	
_____)	

APPLICANT'S ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION

Applicant, Lockton, Inc., a Missouri corporation with its principal place of business at 444 West 47th Street, Suite 900, Kansas City, Missouri 64112, by its counsel, answers the First Amended Notice of Opposition (all capitalized terms used in this Answer but not otherwise defined have the meanings given to them in the First Amended Notice of Opposition) to its Application identified under Serial Number 87/424,607 filed by The United States Department of Homeland Security ("DHS"), an Executive department of the United States of America having an address of 245 Murray Lane, Washington, DC 20528, on behalf of the Federal Emergency Management Agency ("FEMA"), the Federal Insurance and Mitigation Administration

("FIMA"), and the National Flood Insurance Program ("NFIP"), and states the following responses to the paragraphs of the First Amended Notice of Opposition:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1, and therefore, denies the same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2, and therefore, denies the same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3, and therefore, denies the same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4, and therefore, denies the same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5, and therefore, denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6, and therefore, denies the same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7, and therefore, denies the same.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8, and therefore, denies the same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9, and therefore, denies the same. Applicant specifically denies the allegations in paragraph 9 that the wording "National Flood Insurance Program" contained in the NFIP Mark has become distinctive of the FEMA program and of a program operated by the U.S. Government.

10. Exhibits 1 and 2 speak for themselves; and, therefore, Applicant makes no further response to paragraph 10.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11, and therefore, denies the same.

12. Applicant admits the allegations contained in paragraph 12.

13. Applicant admits the allegations contained in paragraph 13.

14. Applicant admits the allegations contained in paragraph 14.

15. Applicant admits the allegations contained in paragraph 15.

16. Applicant denies the allegations contained in paragraph 16.

17. Applicant admits the allegations contained in paragraph 17.

18. Applicant admits the allegations contained in paragraph 18.

19. Applicant admits the allegations contained in paragraph 19.

20. Applicant denies the allegations contained in paragraph 20.

LIKELIHOOD OF CONFUSION UNDER §2(d)

21. Applicant repeats and realleges paragraphs 1 through 20 for its answer to paragraph 21.

22. Applicant denies the allegations contained in paragraph 22.

23. Applicant denies the allegations contained in paragraph 23.

24. Applicant denies the allegations contained in paragraph 24.

25. Applicant denies the allegations contained in paragraph 25.

DILUTION BY BLURRING UNDER §43(c)

26. Applicant repeats and realleges its answers to paragraphs 1 through 25 as its answer to paragraph 26.

27. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27, and therefore, denies the same. Applicant specifically denies the allegation in paragraph 27 that the DHS Mark is well-known and famous.

28. Applicant denies the allegations contained in paragraph 28.

29. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29, and therefore, denies the same. Applicant specifically denies the allegation in paragraph 29 that the DHS Mark is widely recognized.

30. Applicant admits the allegations contained paragraph 30.

31. Applicant denies the allegations contained in paragraph 31.

32. Applicant denies the allegations contained in paragraph 32.

DECEPTION/FALSE SUGGESTION OF CONNECTION UNDER §2(a)

33. Applicant repeats and realleges its answers to paragraphs 1 through 32 as its answer to paragraph 33.

34. Applicant denies the allegations contained in paragraph 34.

35. Applicant denies the allegations contained in paragraph 35.

36. Applicant denies the allegations contained in paragraph 36.

37. Applicant denies the allegations contained in paragraph 37.

MERELY DESCRIPTIVE UNDER §2(e)(1)

38. Applicant repeats and realleges its answers to paragraphs 1 through 37 as its answer to paragraph 38.

39. Applicant denies the allegations contained in paragraph 39.

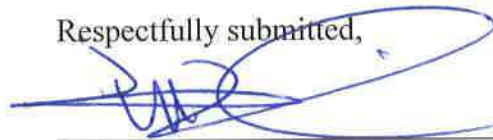
40. Applicant admits the mark of the '607 Application includes the visual representation of a single house and three lines depicting waves adjacent to the word

“ALLUVION”, which extends over the words “FLOOD INSURANCE” and “POWERED BY LOCKTON”. Applicant denies the remaining allegations contained in paragraph 40.

41. Applicant denies the allegations contained in paragraph 41.

WHEREFORE, having fully answered the First Amended Notice of Opposition, Applicant respectfully requests that the First Amended Notice of Opposition be dismissed and the Application identified under Serial Number 87/424,607 be allowed for registration.

Respectfully submitted,



Chad W. Brigham
Goldenberg Heller & Antognoli, P.C.
2227 South State Route 157
Edwardsville, IL 62025
Direct: 618.650.7113
Fax: 618.656.6230
Email: chad@ghalaw.com

Attorneys for Lockton, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and complete copy of the foregoing Applicant’s Answer to First Amended Notice of Opposition has been served upon the following attorneys of record by forwarding a copy on this 25th day of October, 2018, via email, to:

Anjam Aziz
United States Department of
Homeland Security
Office of the General Counsel
245 Murray Lane, Mail Stop 0205
Washington, DC 20528
Anjam.aziz@hq.dhs.gov

Nathan Cristler
Federal Emergency Management Agency
Office of Chief Counsel
500 C Street SW
Washington, DC 20472
nathan.cristler@fema.dhs.gov



Chad W. Brigham