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

Proceeding	91241186
Party	Defendant FAIRMONT HOLDINGS, INC.
Correspondence Address	KIM KOLBACK LAW OFFICES OF KIMBERLY KOLBACK 1395 BRICKELL AVE., SUITE 800 MIAMI, FL 33131 Email: kim@kkolbacklaw.com
Submission	Answer
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Date	07/05/2018
Attachments	answer and affirmative defenses .pdf(33077 bytes)

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

TOP TOBACCO, L.P.,
Opposer,

v.

Opposition No.: 91241186

Mark: TOP SECRET

Serial No.: 87/697,612

Fairmont Holdings, Inc.,
Applicant.

ANSWER AND AFFIRMATIVE DEFENSES

Applicant, Fairmont Holdings, Inc., a Florida corporation, by and through undersigned counsel, hereby files this Answer And Affirmative Defenses as follows:

ANSWER

1. Applicant is without knowledge as to the allegations contained within Paragraphs 1 through 4, and therefore denies same and demands strict proof thereof.
2. Applicant admits that it filed Application Serial no. 87/697,612 on November 27, 2017 however, Applicant denies the remainder of Paragraph 5 and demands strict proof thereof.
3. Applicant denies the allegations contained within Paragraph 6 as stated, and demands strict proof thereof.

Any allegation not specifically admitted herein is denied.

AFFIRMATIVE DEFENSES

Further answering Opposer's Complaint, Applicant states in the affirmative and the alternative as follows:

- A. Upon information and belief, to the extent Opposer ever made lawful trademark use of its registered marks in connection with any or all of the goods listed in its registrations, Opposer has ceased using the mark in connection with certain goods recited in the registrations, and Applicant reserves the right to seek cancellation of such registrations and/or goods.
- B. Upon information and belief, Opposer has abandoned the use of its various registered marks related to various goods recited in the registrations as valid trademarks, and Applicant reserves the right to seek cancellation of such registrations and/or goods.
- C. Opposer is estopped, by operation of law and by virtue of its conduct, from asserting its

claims.

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

Applicant specifically reserves the right to allege additional affirmative defenses as they may present themselves during the discovery process.

Respectfully submitted:

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By: /s/ Kimberly Kolback/
KIMBERLY KOLBACK

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing is being submitted electronically, via the ESTTA, with the Trademark Trial And Appeal Board, on July 5, 2018. I further hereby certify that a true and correct copy of the above and foregoing is being served by U.S. Mail and electronically on July 5, 2018 upon:

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