

ESTTA Tracking number: **ESTTA942607**

Filing date: **12/19/2018**

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

Proceeding	91244048
Party	Defendant AC Ocean Walk LLC
Correspondence Address	MATTHEW D FRANCIS BROWNSTEIN HYATT FARBER SCHRECK, LLP 410 SEVENTEENTH STREET, SUITE 2200 DENVER, CO 80202 UNITED STATES dntrademarkdocket@bhfs.com, dackerman@bhfs.com, cmerriam@bhfs.com, mfrancis@bhfs.com, nlindsley@bhfs.com 303-223-1129
Submission	Answer
Filer's Name	Matthew D. Francis
Filer's email	mfrancis@bhfs.com, nlindsley@bhfs.com, dntrademarkdocket@bhfs.com
Signature	/Matthew D. Francis/
Date	12/19/2018
Attachments	2018-1219 Answer to Notice of Opposition.pdf(9131 bytes)

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

In the Matter of Application Serial No.: 87/777,067
Mark: OCEAN AC
Filed on: January 30, 2018
Published in the Office Gazette on: June 12, 2018

MARRIOTT INTERNATIONAL, INC., Opposer, v. AC OCEAN WALK LLC, Applicant.	Opposition No. 91244048
---	-------------------------

ANSWER TO NOTICE OF OPPOSITION

Applicant AC Ocean Walk LLC (“Applicant”) hereby responds to the allegations set forth in Opposer Marriott International, Inc.’s (“Opposer”) Notice of Opposition, as follows:

BACKGROUND

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of these averments, and therefore denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of these averments, and therefore denies the same.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of these averments, and therefore denies the same.
4. Admitted to the extent that Opposer is the last listed owner of U.S. Registration Nos. 5,286,306, 4,895,882, 4,955,012, 4,998,546, 4,390,299, 4,394,553, 4,874,601, 4,874,602, 4,874,603, and 4,390,298, and that printouts of those Registrations are attached to Opposer’s Notice of Opposition. Otherwise, Applicant is without knowledge or information sufficient to form a belief as to the truth of these averments, and therefore denies the same.
5. Applicant is without knowledge or information sufficient to form a belief as to the

truth of these averments, and therefore denies the same.

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

7. Admitted to the extent that Applicant filed Serial No. 87/777,067 (“067 App.”) on January 30, 2018 for its inherently distinctive service mark “OCEAN AC” in International Classes 043, 041, and 028. Otherwise, denied.

8. Denied.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of these averments, and therefore denies the same.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

AFFIRMATIVE DEFENSES

1. Opposer’s Notice of Opposition fails to state a claim upon which relief can be granted.

2. No likelihood of confusion exists.

3. Applicant’s use of “AC” stands for “Atlantic City.”

4. The “AC” in Opposer’s U.S. Registration Nos. 5,286,306, 4,895,882, 4,955,012, 4,998,546, 4,390,299, 4,394,553, 4,874,601, 4,874,602, 4,874,603, and 4,390,298 stands for the living individual “Antonio Catalan,” who is the founder and President of AC Hotels. During prosecution of these Registrations, Opposer never informed the USPTO that “AC” stands for Antonio Catalan, and none of these Registrations provide notice to the public that “AC” identifies Antonio Catalan pursuant to TMEP 813.01(a).

5. Respondent reserves the right to amend its Answer to allege additional affirmative defenses if subsequent investigation warrants the same.

///

WHEREFORE, Respondent prays for the following relief:

1. Dismissal of Opposer's Notice of Opposition with prejudice;
2. That new certificates of registration be issued for U.S. Registration Nos. 5,286,306, 4,895,882, 4,955,012, 4,998,546, 4,390,299, 4,394,553, 4,874,601, 4,874,602, 4,874,603, and 4,390,298 that contain the following language: "The initials 'AC' identifies 'Antonio Catalan,' who is a living individual"; and
3. Such other relief to Applicant that the Board deems to be just and proper.

Dated: December 19, 2018

Respectfully Submitted,

By: /Matthew D. Francis/

Matthew D. Francis

Daniel I. Ackerman

Brownstein Hyatt Farber Schreck, LLP

410 17th Street, Suite 2200

Denver, CO 80202

mfrancis@bhfs.com

dackerman@bhfs.com

Attorneys for Applicant AC OCEAN WALK LLC

CERTIFICATE OF SERVICE

I, Nancy Lindsley, certify that I am an employee of the Law Offices of Brownstein Hyatt Farber Schreck, LLP, and on this day I emailed and deposited a true and correct copy in the United States mail, first class postage prepaid, of the within document entitled **ANSWER TO NOTICE OF OPPOSITION**, addressed as follows:

J. David Mayberry
Brittany T. Knutson
Victoria J.B. Doyle
Kilpatrick Townsend & Stockton LLP
607 14th Street, NW, Suite 900
Washington, DC 20005
DMayberry@kilpatricktownsend.com
BKnutson@kilpatricktownsend.com
vdoyle@kilpatricktownsend.com

Dated: December 19, 2018

/s/Nancy Lindsley
Nancy Lindsley
An Employee of Brownstein Hyatt
Farber Schreck, LLP