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

Proceeding	92051645
Party	Defendant Doors for Builders, Inc.
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Submission	Answer
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Attachments	2335-4 Answer to Petition for Cancellation (00070798).PDF (6 pages)(28482 bytes)

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

Masonite International Corporation and
Masonite Corporation,

Petitioners,

v.

Doors for Builders, Inc.,

Registrant.

Cancellation No. 92051645

Registration No. 3,284,513

**ANSWER TO PETITION FOR CANCELLATION
OF REGISTRATION OF TRADEMARK**

Doors for Builders, Inc. (“Registrant”), by and through their attorneys, hereby answers the Petition for Cancellation filed by Masonite International Corporation and Masonite Corporation (individually “MIC” and “MC”, respectively; collectively “Petitioners”), with the following responses, affirmative defenses, and prayer for relief:

1. The Registrant has obtained Registration No. 3,284,513 (“the ‘513 registration”) for the mark GLENVIEW DOORS & Design as applied to “Wooden and glass doors”, claiming a date of first use of March 30, 2006.

Answer:

Admitted.

2. The ‘513 registration was registered August 28, 2007.

Answer:

Admitted.

3. Petitioners are now and for many years have been engaged in the manufacture, sale and distribution of non-metal doors primarily made from composite materials.

Answer:

Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment, and therefore denies it.

4. Petitioners' sales have been directed to purchasers in the trade and the general public.

Answer:

Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment, and therefore denies it.

5. MIC owns U.S. Trademark Application No. 77/133,127, filed March 16, 2007 for the mark GLENVIEW as applied to non-metal doors formed primarily from composite materials.

Answer:

Registrant admits that the Trademark Office Website indicates that MIC owns U.S. Trademark Application No. 77/133,127, filed March 16, 2007 for the mark GLENVIEW used in connection with non-metal entry doors formed primarily from composite materials.

6. Since at least January 2006, Petitioners have used the mark GLENVIEW with regard to the promotion and sale of non-metal doors formed primarily from composite materials.

Answer:

Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment, and therefore denies it.

7. Petitioners first promoted their non-metal doors formed primarily from composite materials commencing with at least the International Builders Show held January 11-14, 2006 in Orlando, Florida and thereafter throughout the country.

Answer:

Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment, and therefore denies it.

8. Registrant's mark GLENVIEW DOORS & Design is substantially similar to MIC's mark GLENVIEW.

Answer:

Registrant admits that there is a likelihood of confusion between Registrant's mark GLENVIEW DOORS and design and MIC's mark GLENVIEW. The remaining portion of this averment is denied.

9. Registrant's mark GLENVIEW DOORS & Design is substantially similar to MC's mark GLENVIEW.

Answer:

Registrant denies that MC owns the GLENVIEW mark. Registrant admits that there is a likelihood of confusion between Registrant's mark GLENVIEW DOORS and design and MIC's mark GLENVIEW. The remaining portion of this averment is denied.

10. MIC's trademark application for the mark GLENVIEW has been refused as being confusingly similar to Registrant's mark as applied to the goods identified in the '513 Registration.

Answer:

Registrant admits that the Trademark Office Website indicates that MIC's trademark application for the GLENVIEW mark has been refused registration by the Trademark Office because of a likelihood of confusion with the mark in U.S. Registration 3,284,513. The remaining portion of this averment is denied.

11. The goods of the '513 registration are similar to those goods listed in the MIC trademark application and to the goods sold by MC under its GLENVIEW mark.

Answer:

Registrant admits that the goods listed in the '513 Registration are similar to the goods listed in the MIC trademark application. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining portion of the averment, and therefore denies it.

12. The '513 registration does not restrict the goods in any particular manner in terms of channels of trade.

Answer:

Admitted.

13. Petitioners' proprietary rights in the GLENVIEW mark are prior to Registrant's rights in its '513 registration, as evidenced by Petitioner's use of the GLENVIEW mark since prior to any date of use alleged by Registrant.

Answer:

Denied.

14. Registrant's mark GLENVIEW DOORS & Design so closely resembles Petitioners' GLENVIEW mark as to be likely, when applied to Registrant's goods, to cause confusion and mistake and to deceive, with consequent injury to Petitioners, the trade and the public.

Answer:

Registrant admits that there is a likelihood of confusion between Registrant's mark GLENVIEW DOORS and design and MIC's mark GLENVIEW. The remaining portion of this averment is denied.

15. Petitioners have been or will be damaged by Registrant's use of the '513 registration because such use will support and assist Registrant in the confusing and misleading use of its mark, and will give color of exclusive statutory rights in Registrant in violation and derogation of the prior superior rights of Petitioners.

Answer:

Denied.

16. Registrant's use of its GLENVIEW DOORS & Design mark has or will injure Petitioners' business reputation and dilute the distinctive quality of Petitioners' GLENVIEW mark.

Answer:

Denied.

17. Petitioners have suffered or will suffer substantial damage and dilution with regard to their good name and reputation by Registrant's use of its GLENVIEW DOORS & Design mark.

Answer:

Denied.

Registrant alleges herein the following Affirmative Defenses:

1. Petitioners have failed to state a claim upon which relief can be granted.
2. On information and belief, Petitioner Masonite Corporation is not the owner of trademark application Serial No. 77/133,127.
3. Petitioners are barred from obtaining the relief sought due to the doctrine of laches, estoppel and acquiescence.

Wherefore, Registrant respectfully requests that the Trademark Trial and Appeal Board deny the relief sought by Petitioners, dismiss with prejudice the Petition for Cancellation, and grant Registrant such other relief as may be just and proper.

Please address all correspondence to:

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Respectfully submitted,

Date: December 3, 2009

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CERTIFICATE OF MAILING AND SERVICE

I hereby certify that this paper is being filed with the Trademark Trial and Appeal Board on December 3, 2009, using the Electronic System for Trademark Trials and Appeals (ESTTA) on the PTOnet.

I further certify that a true and correct copy of this paper was served upon:

MASONITE INTERNATIONAL CORPORATION and
MASONITE CORPORATION

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by depositing the same with the United States Postal Service, postage prepaid, on December 3, 2009

Dated: December 3, 2009

/Jeffrey A. Pine/