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

Proceeding	91162252
Party	Defendant Innovation Plus Holdings Corp. Innovation Plus Holdings Corp. 325 Waterfront Drive Omar Hodge Building, 2nd Floor VGX Road Town, Tortola,
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Attachments	ANSWER TO NOTICE OF OPPOSITION-Mars_May 13, 2005.pdf (5 pages)

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

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11 MARS, INCORPORATED,

12 Opposer,

13 Vs.

14 INNOVATION PLUS HOLDINGS CORP.,

15 Applicant

Opposition No.: 91162252

Serial No.: 78/127678

**APPLICANT'S ANSWER TO NOTICE OF
OPPOSITION**

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20 **APPLICANT'S ANSWER TO NOTICE OF OPPOSITION**

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23 Applicant, Innovation Plus Holdings Corp., for its answers to the Notice of Opposition filed
24 by Mars, Incorporated., on September 24, 2004, against registration of Applicant's trademark "GINO"
25 & Design, in international Classes 29 and 30, Serial No. 78/127678 filed on May 9, 2002 and
26 published in the Official Gazette on April 22, 2004, pleads and avers as follows:

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1 1. Answering paragraph 1 of the Notice of Opposition, Applicant does not have sufficient
2 knowledge or information to form a belief as to the truth of the allegations contained therein and
3 accordingly denies the all the allegations, leaving Opposer to its strict proof at trial.

4 2. Answering paragraph 2 of the Notice of Opposition, Applicant does not have sufficient
5 knowledge or information to form a belief as to the truth of the allegations contained therein and
6 accordingly denies the allegation, leaving Opposer to its strict proof at trial.

7 3. Answering paragraph 3 of the Notice of Opposition, Applicant does not have sufficient
8 knowledge or information to form a belief as to the truth of the allegations contained therein and
9 accordingly denies the allegation, leaving Opposer to its strict proof at trial.

10 4. Answering paragraph 4 of the Notice of Opposition, Applicant does not have sufficient
11 knowledge or information to form a belief as to the truth of the allegations contained therein and
12 accordingly denies the allegation, leaving Opposer to its strict proof at trial.

13 5. Answering paragraph 5 of the Notice of Opposition, Applicant does not have sufficient
14 knowledge or information to form a belief as to the truth of the allegations contained therein and
15 accordingly denies the allegation, leaving Opposer to its strict proof at trial.

16 6. Answering paragraph 6 of the Notice of Opposition, Applicant does not have sufficient
17 knowledge or information to form a belief as to the truth of the allegations contained therein and
18 accordingly denies the allegation, leaving Opposer to its strict proof at trial.

19 7. Answering paragraph 7 of the Notice of Opposition, Applicant does not have sufficient
20 knowledge or information to form a belief as to the truth of the allegations contained therein and
21 accordingly denies the allegation, leaving Opposer to its strict proof at trial.

22 8. Answering paragraph 8 of the Notice of Opposition, Applicant does not have sufficient
23 knowledge or information to form a belief as to the truth of the allegations contained therein and
24 accordingly denies the allegation, leaving Opposer to its strict proof at trial.

25 9. Answering paragraph 9 of the Notice of Opposition, Applicant does not have sufficient
26 knowledge or information to form a belief as to the truth of the allegations contained therein and
27 accordingly denies the allegation, leaving Opposer to its strict proof at trial.

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1 pair of glasses. The lining, stippling and the font of the word “GINO” as well as tomato character
2 used by Applicant are different than the lining, stippling and font of the word “M” as well as
3 character used by Opposer. Furthermore, Applicant’s design strongly emphasizes the mark “GINO”,
4 whereas Opposer’s design strongly emphasizes the mark “M”, which prevents confusion, deception
5 or mistake as to the source or sponsorship or association of Applicant’s goods.

6 5. Upon information and belief, Applicant’s characters which consist of a round or oval
7 shaped body with human features including eyes, legs, hands with gloves and feet with shoes, a pair
8 of glasses have been used and registered by numerous third parties and are not the exclusive
9 trademark rights of Opposer. As these are not elements exclusively used by Opposer or exclusively
10 associated with Opposer, Opposer cannot claim exclusive use of such characters.

11 6. There is no likelihood of confusion, mistake or deception between the Applicant’s Marks
12 and Opposer’s Marks because the word portion of Applicant’s Mark, “GINO”, is entirely different
13 than the word portion of Opposer’s Marks, “M”. Applicant’s mark appears differently than
14 Opposer’s mark “M”, and sounds differently.

15 7. Opposer is barred from opposing Applicant’s registration under the doctrine of laches
16 because Opposer’s goods and mark coexist with Applicant’s goods and mark without conflict in
17 certain countries.

18 8. Opposer lacks standing to bring this opposition.

19 9. Opposer’s Notice of Opposition fails to state legally sufficient grounds for sustaining the
20 opposition.

21 10. Opposer has failed to state a claim for which relief may be granted.

22 11. Opposer does not show how it reasonably believes that it will be damaged by registration
23 of Applicant’s Mark.

24 12. Opposer has settled any objections to Applicant’s use of the mark in Australia, and their
25 marks coexist in Australia at present.

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PRAYER

WHEREFORE, Applicant, Innovation Plus Holdings Corp., prays that this Opposition be dismissed and that Applicant be granted registration of its trademark.

Respectfully submitted,

INTELLECTUAL PROPERTY LAW GROUP LLP

Date: May 13, 2005

By: Otto O. Lee

Otto O. Lee

Erin Williams

Attorneys for Applicant,

Innovation Plus Holdings, Corp.

Please Refer To Our File: STEVENSON.IPHC.GINO.TTAB1

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