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

Proceeding	91180485
Party	Defendant GOREN, MELVINA
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Submission	Motion to Amend/Amended Answer or Counterclaim
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Date	04/05/2008
Attachments	Soul Star Underground Amended Answer.pdf ( 6 pages )(2501876 bytes ) Certification scanned.pdf ( 1 page )(3311058 bytes )

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

Applicant, SOUL STAR UNDERGROUND, Serial No. 76652351 filed with the United States Patent & Trademark Office (hereinafter referred to as the "PTO") December 22, 2005 submits this response to the Notice of Opposition filed on behalf of Application Serial No. 78680003 for the trademark UNDERGORUND SOUL filed on July 27, 2005.

Swat Fame, Inc.,

Opposer,

vs.

Melvina Goren,

Applicant

Opposition No. 91180485

**ANSWER**

Melvina Goren (hereinafter referred to as "Applicant"), an individual, located in Brooklyn, New York, hereby refutes Swat Fame, Inc.'s (hereinafter referred to as "Opposer") argument, mailed October 31, 2007, which contends that Applicant's mark, SOUL STAR UNDERGROUND will likely cause confusion with Opposer's mark, UNDERGROUND SOUL.

## GENERAL OBJECTIONS

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 1 of the Opposition.
2. Applicant admits Paragraph 2 of the Opposition.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 3 of the Opposition.
4. Applicant admits to Paragraph 4 in part and denies Paragraph 4 in part. In particular, Applicant denies the PTO accepted Opposer's Amendment to Allege Use on August 12, 2006.
5. Applicant admits Paragraph 5 of the Opposition.
6. Applicant admits Paragraph 6 of the Opposition.
7. Applicant is without knowledge or information sufficient to form a belief as to the truth of Paragraph 7 of the Opposition.
8. Applicant admits Paragraph 8 of the Opposition.
9. Applicant admits to Paragraph 9 of the Opposition. However, in Applicant's defense to Opposer's claim, Opposer's initial application, Serial No. 78680003, has identified virtually every known variation of wearing apparel, forty two (42) types to be exact. Therefore, it would be impossible for any applicant, not only the Applicant at issue in this proceeding, to identify completely different configurations of common goods when the class of clothing apparel consists of nearly everything Opposer has included in its application, thus unduly prejudicing

Applicant from utilizing the very arbitrary words SOUL or UNDERGROUND in connection with its goods.

10. Applicant denies Paragraph 10 of the Opposition. In Applicant's defense to Opposer's claim, likelihood of confusion fails to exist because of the vast distinction in appearance between Applicant and Opposer's marks. Specifically Applicant's mark, SOUL STAR UNDERGROUND, has a very unique, stylized appearance entailing flowers, wrapping vines, coils, swirls and spirals (see Applicant's attached Exhibit A), and the first two words, SOUL STAR are placed in big letters over the word UNDERGORUND, making SOUL STAR the dominant feature of the mark. If forced to consider the "distinctive format" Opposer claims in the Opposition's Exhibit A, the dominant feature in Opposer's mark is a descriptive version of the word SOUL with the word UNDERGROUND going through the word SOUL. Clearly, Applicant's mark is significantly dissimilar from that of Opposer's mark. In addition, Applicant solely uses its mark on a specific type of goods covered by the broad identification of Class 25, namely "t-shirts, tank tops, hooded sweatshirts, sweatshirts, shorts, pants, skirts, jackets, trucker hats, baseball caps, flip flops and bandanas," while Opposer uses its mark in connection with numerous variations of wearing apparel that virtually cover the entire spectrum of Class 25. Thus Opposer's claim of likelihood of confusion is without merit.

11. Applicant denies Paragraph 11 of the Opposition.

WHEREFORE, Applicant believes no likelihood of confusion is present and no damage will be suffered by Opposer if registration is granted, and therefore requests that this Answer be sustained and the Opposition sought by Opposer be denied.

Applicant hereby appoints Patricia Lawrence Kolaras, member of the Bar of the State of New Jersey, and The PLK Law Group, P.C., located at 390 Amwell Road, Building 3, Suite 313, Hillsborough, New Jersey 08844 as its attorneys to defend this Answer, with full power of substitution and revocation, and to transact all business in the United States Patent & Trademark Office in connection therewith. All correspondence is to be forwarded to The PLK Law Group, P.C. at the address indicated herein.

BY:



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Dated: April 4, 2008

**EXHIBIT A  
(FOLLOWING PAGE)**



Certificate of Service

I hereby certify that this Amended Answer was served on Opposer by delivering a true and correct copy thereof to Opposer's Attorney at his address of record via Certified Registered Mail addressed to William A. Finkelstein, Dreier Stein Kahan LLP, 1620 26<sup>th</sup> Street, 6<sup>th</sup> Floor-North Tower, Santa Monica, CA 90404.

  
Patricia L. Kolaras, Esq.