

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

**IN THE MATTER OF TRADEMARK APPLICATION
SERIAL NO. 76/677,501 PUBLISHED IN THE
OFFICIAL GAZETTE ON JULY 15, 2008
MARK: GUM CHUMS**

Sunstar Americas, Inc.	Opposer,	Opposition No. 91188371
vs.		
I DID IT, Inc.,	Applicant	

ANSWER

**United States Patent and Trademark Office
Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451**

I DID IT, Inc. of 81 Mosle Road, Far Hills, NJ 07931 (“Applicant”), by their undersigned attorney, hereby answers the Notice Of Opposition filed by Sunstar Americas, Inc. (“Opposer”), as follows:

1. Applicant admits the allegations in Paragraph 1 of the Notice Of Opposition.
2. Applicant admits the allegations in Paragraph 2 of the Notice Of Opposition.



02-09-2009

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3. Applicant admits the allegations in Paragraph 3 of the Notice Of Opposition.
4. Applicant lacks sufficient information to form a conclusion about the allegations in Paragraph 4 of the Notice Of Opposition and therefore denies the same.
5. Applicant lacks sufficient information to form a conclusion about the allegations in Paragraph 5 of the Notice Of Opposition and therefore denies the same.
6. Applicant admits the allegations in Paragraph 6 of the Notice Of Opposition.
7. Applicant lacks sufficient information to form a conclusion about the allegations in Paragraph 7 of the Notice Of Opposition and therefore denies the same.
8. Applicant lacks sufficient information to form a conclusion about the allegations in Paragraph 8 of the Notice Of Opposition and therefore denies the same.
9. Applicant denies the allegations in Paragraph 9 of the Notice Of Opposition.
10. Applicant denies the allegations in Paragraph 10 of the Notice Of Opposition.

11. Applicant denies the allegations in Paragraph 11 of the Notice Of Opposition.

AFFIRMATIVE DEFENSES

1. Opposer's pleaded marks **G.U.M.** (Registration Nos. 824,430; 1,826,880; 1,826,950; 1,850,157; 3,045,931 and 3,169,695) are not confusingly similar in appearance, sound or connotation to Applicant's mark and therefore there is no likelihood of confusion in the marketplace as to the source of goods; alternatively, Opposer's pleaded marks **G.U.M.** (Registration Nos. 824,430; 1,826,880; 1,826,950; 1,850,157; 3,045,931 and 3,169,695) are registered for toothbrushes, floss, interdental equipment, dental tape and dental oral rinse in Classes 29,10,21,5, and 3, and are not associated with goods sold through the same or similar channels of commerce, or to the same or similar class of purchasers, as the goods, namely, medicated chewy vitamin tablets in the shape of animals and toys, associated with Applicant's mark, and therefore there is no likelihood of confusion in the marketplace as to the source of goods.
2. Opposer's pleaded marks **G.U.M.** (Registration Nos. 824,430; 1,826,880; 1,826,950; 1,850,157; 3,045,931 and 3,169,695) are not confusingly similar in appearance to Applicant's mark and therefore there is no likelihood of confusion in the marketplace as to the source of goods.

Opposer's pleaded marks **G.U.M.** (Registration Nos. 824,430; 1,826,880; 1,826,950; 1,850,157; 3,045,931 and 3,169,695) consist of three letters, interspersed with periods, which suggest an abbreviation; or, in association with Opposer's goods, *dental equipment for use on the gums*. Applicant's mark, in contrast, is composed of two full words, which in association with Applicant's goods suggest *food substances, namely, chewy vitamin tablets in animal and toy shapes*.

3. Opposer's pleaded marks **GUM** (Registration Nos. 2,199,875 and 2,969,874) are not confusingly similar in appearance to Applicant's mark and therefore there is no likelihood of confusion in the marketplace as to the source of goods. Opposer's pleaded marks **GUM** (Registration Nos. 2,199,875 and 2,969,874) consists of the word **GUM**, which in association with Opposer's goods, connotes *dental equipment for use on the gums*. Applicant's mark, in contrast, is composed of two full words, which in association with Applicant's goods connote *food substances, namely, chewy vitamin tablets in animal and toy shapes*.

4. Opposer's pleaded marks **G.U.M.** (Registration Nos. 824,430; 1,826,880; 1,826,950; 1,850,157; 3,045,931 and 3,169,695) are not confusingly similar in sound to Applicant's mark and therefore there is no likelihood of confusion in the marketplace as to the source of goods. Opposer's pleaded marks **G.U.M.** (Registration Nos. 824,430; 1,826,880; 1,826,950;

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1,850,157; 3,045,931 and 3,169,695) consist of three letters, interspersed with periods, which suggest an abbreviation; or, in association with Opposer's goods, *dental equipment for use on the gums*. Applicant's mark, in contrast, is composed of the word **GUM**, together with the word **CHUMS**. In the usual manner of pronunciation of the English language, the emphasis falls on **CHUMS**, which in association with Applicant's goods connote friendly and inviting *food substances, namely, chewy vitamin tablets in animal and toy shapes*.

5. Opposer's pleaded marks **GUM** (Registration Nos. 2,199,875 and 2,969,874) are not confusingly similar in sound to Applicant's mark and therefore there is no likelihood of confusion in the marketplace as to the source of goods. Opposer's pleaded marks **GUM** (Registration Nos. 2,199,875 and 2,969,874) consists of the word **GUM**, which in association with Opposer's goods, connotes *dental equipment for use on the gums*. Applicant's mark, in contrast, is composed of the word **GUM**, together with the word **CHUMS**. In the usual manner of pronunciation of the English language, the emphasis falls on **CHUMS**, which in association with Applicant's goods connote friendly and inviting *food substances, namely, chewy vitamin tablets in animal and toy shapes*.
6. Opposer's pleaded marks **G.U.M.** (Registration Nos. 824,430; 1,826,880; 1,826,950; 1,850,157; 3,045,931 and 3,169,695) are not confusingly

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similar in connotation to Applicant's mark and therefore there is no likelihood of confusion in the marketplace as to the source of goods. Opposer's pleaded marks **G.U.M.** (Registration Nos. 824,430; 1,826,880; 1,826,950; 1,850,157; 3,045,931 and 3,169,695) consist of three letters, interspersed with periods, which suggest an abbreviation; or, in association with Opposer's goods, *dental equipment for use on the gums*. Applicant's mark, in contrast, is composed of two full words, which in association with Applicant's goods suggest *food substances, namely, chewy vitamin tablets in animal and toy shapes*.

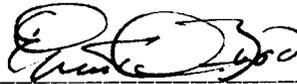
7. Opposer's pleaded marks **GUM** (Registration Nos. 2,199,875 and 2,969,874) are not confusingly similar in connotation to Applicant's mark and therefore there is no likelihood of confusion in the marketplace as to the source of goods. Opposer's pleaded marks **GUM** (Registration Nos. 2,199,875 and 2,969,874) and 3,169,695) consist of three letters, which in association with Opposer's goods, connote *dental equipment for use on the gums*. Applicant's mark, in contrast, is composed of two full words, which in association with Applicant's goods connote *food substances, namely, chewy vitamin tablets in animal and toy shapes*.
8. Opposer has failed to state a claim on which relief can be granted.
9. All other defenses not herein composed are hereby reserved and this Answer is hereby amended to include those defenses.

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WHEREFORE, Applicant requests that the Notice Of Opposition be dismissed with prejudice, and that the opposed application be approved for issuance of a registration or Notice Of Allowance, as applicable.

Respectfully submitted,

ERNEST D. BUFF & ASSOCIATES, LLC



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DATED: February 5, 2009

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this document is being served on Opposer on the undersigned date, by transmitting the same via First Class Mail in an envelope addressed to Opposer's attorney of record at the address set forth below:

Gretchen Hosty Kotleba Esq.
Michael Best & Friedrich LLP
Two Prudential Plaza
180 N. Stetson Ave, Suite 2000
Chicago, IL 60601-6710

By: 

Ernest D. Buff

Date of Signature: February 6, 2009

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Bedminster, N.J. 07921
February 6, 2009

United States Patent and Trademark Office
Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir:

Certificate of Mailing by First Class Mail

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451 on February 6, 2009.



Signature

Ernest D. Buff

Attorney of Record

February 6, 2009

(Date)