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

Proceeding	91189991
Party	Defendant Trivani International, LLC
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of application Serial No. **77/499,953**  
For the mark: **DO NO HARM PHILOSOPHY**  
Published in the "Official Gazette" On **December 30, 2008**

_____ PHILOSOPHY, INC.	)	
	)	
Opposer,	)	
	)	Opposition No. 91189991
vs.	)	
	)	
TRIVANI INTERNATIONAL, LLC	)	
	)	
Applicant.	)	
_____	)	

In response to the Notice of Opposition, dated April 29, 2009, Applicant TRIVANI INTERNATIONAL, LLC. ("Applicant"), answers the Notice of Opposition filed by Opposer PHILOSOPHY, INC. ("Opposer") as follows:

**ANSWER TO NOTICE OF OPPOSITION**

Applicant denies that Opposer will be damaged by the issuance of a registration for the mark DO NO HARM PHILOSOPHY, as applied for in application Serial No. 77/499,953, filed on June 16, 2008, by Applicant.

Applicant hereby answers Opposer's grounds for opposition as follows:

1. Applicant denies all allegations set forth in Opposer's Notice of Opposition not specifically admitted to herein.

2. Applicant admits that it filed an application to register the mark DO NO HARM PHILOSOPHY as a service mark for multi-level marketing services in International Class 35, now assigned United States Trademark Application Serial No. 77/499,953 on June 16, 2008,

claiming a first use at least as early as November 3, 2007, and published in the Official Gazette dated December 30, 2008, as set forth in paragraph 1 of the Notice of Opposition.

3. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 2 of the Notice of Opposition and, therefore, denies such allegations.

4. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 3 of the Notice of Opposition and, therefore, denies such allegations.

5. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 4 of the Notice of Opposition and, therefore, denies such allegations.

6. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 5 of the Notice of Opposition and, therefore, denies such allegations.

7. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 6 of the Notice of Opposition and, therefore, denies such allegations.

8. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 7 of the Notice of Opposition and, therefore, denies such allegations.

9. Applicant admits that according to the records of the United States Patent and Trademark Office, Opposer is listed as the owner of U.S. Trademark Registration No. 2,016,208 for the mark PHILOSOPHY for the goods set forth therein. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 8 of the Notice of Opposition and, therefore, denies such allegations.

10. Applicant admits that, according to the records of the United States Patent and Trademark Office, Opposer is listed as the owner of U.S. Trademark Registration No. 3,406,516 for the mark PHILOSOPHY for the goods set forth therein. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 9 of the Notice of Opposition and, therefore, denies such allegations.

11. Applicant admits that, according to the records of the United States Patent and Trademark Office, Opposer is listed as the owner of U.S. Trademark Registration No. 3,412,632 for the mark PHILOSOPHY for the goods and services set forth therein. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 10 of the Notice of Opposition and, therefore, denies such allegations.

12. Applicant admits that, according to the records of the United States Patent and Trademark Office, Opposer is listed as the owner of U.S. Trademark Registration No. 2,214,968 for the mark PHILOSOPHY for the goods set forth therein. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 11 of the Notice of Opposition and, therefore, denies such allegations.

13. Applicant admits that, according to the records of the United States Patent and Trademark Office, Opposer is listed as the owner of U.S. Trademark Registration No. 3,440,195 for the mark PHILOSOPHY for the goods set forth therein. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 12 of the Notice of Opposition and, therefore, denies such allegations.

14. Applicant admits that, according to the records of the United States Patent and Trademark Office, Opposer is listed as the owner of U.S. Trademark Registration No. 2,269,341 for the mark PHILOSOPHY for the services set forth therein. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 13 of the Notice of Opposition and, therefore, denies such allegations.

15. Applicant admits that, according to the records of the United States Patent and Trademark Office, Cosmedic Concepts, Inc. is listed as the owner of U.S. Trademark Registration No. 2,388,010 for the mark PHILOSOPHY for the services set forth therein. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the remaining allegations set forth in paragraph 14 of the Notice of Opposition and, therefore, denies such allegations.

16. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 15 of the Notice of Opposition and, therefore, denies such allegations.

17. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 16 of the Notice of Opposition and, therefore, denies such allegations.

18. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 17 of the Notice of Opposition and, therefore, denies such allegations.

19. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 18 of the Notice of Opposition and, therefore, denies such allegations.

20. Applicant denies the allegations set forth in paragraph 19 of the Notice of Opposition.

21. Applicant denies the allegations set forth in paragraph 20 of the Notice of Opposition.

22. Applicant denies the allegations set forth in paragraph 21 of the Notice of Opposition.

23. Applicant denies the allegations set forth in paragraph 22 of the Notice of Opposition.

24. Applicant denies the allegations set forth in paragraph 23 of the Notice of Opposition.

25. Applicant admits that the Notice of Opposition was timely filed within an extension of time granted by the Trademark Trial and Appeal Board, as set forth in paragraph 24 of the Notice of Opposition. Applicant denies all other allegations set forth in paragraph 24 of the Notice of Opposition.

26. Applicant lacks knowledge or information sufficient to form a basis to admit or deny the allegations set forth in paragraph 25 of the Notice of Opposition and, therefore, denies such allegations.

#### **AFFIRMATIVE DEFENSES**

By way of defense to the allegations set forth in the Notice of Opposition, Applicant asserts the following:

#### **FIRST AFFIRMATIVE DEFENSE**

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

#### **SECOND AFFIRMATIVE DEFENSE**

Opposer is not likely to be damaged by registration of Applicant's mark and, therefore, lacks standing to oppose registration of the same.

### **THIRD AFFIRMATIVE DEFENSE**

Any rights Opposer may have in its asserted marks are limited and narrow in scope of protection and, therefore, no likelihood of confusion exists between Opposer's mark as applied to Opposer's goods and services and Applicant's DO NO HARM PHILOSOPHY mark as applied to Applicant's services.

### **FOURTH AFFIRMATIVE DEFENSE**

The goods and services recited in Opposer's registrations are sold in different channels of trade than Applicant's goods and therefore no likelihood of confusion exists.

### **FIFTH AFFIRMATIVE DEFENSE**

Applicant's use of its DO NO HARM PHILOSOPHY mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods and services, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

### **SIXTH AFFIRMATIVE DEFENSE**

Applicant's services are sufficiently distinctively different from Opposer's goods to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's services with Opposer.

**SEVENTH AFFIRMATIVE DEFENSE**

Applicant's mark, when used in connection with Applicant's services, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's services by Opposer.

**RELIEF REQUESTED**

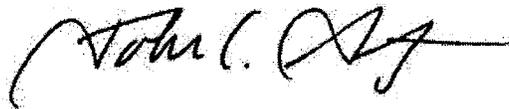
In view of the foregoing, Applicant respectfully requests that the relief requested by Opposer be denied, that the Opposition be dismissed with prejudice, and that registration of Applicant's Trademark Application Serial No. 77/499,953 be granted.

All correspondence and telephonic communications should be directed to:

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SIGNED on this the 8th day of June 2009.

Respectfully submitted,  
WORKMAN NYDEGGER



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Attorneys for Applicant  
TRIVANI INTERNATIONAL, LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served on Opposer by mailing a true copy thereof to its counsel, by First Class Mail, postage prepaid, on this the 8th day of June 2009, in envelopes addressed as follows:

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SUE HELD