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

Proceeding	91195327
Party	Defendant Hard Candy, LLC
Correspondence Address	GABRIEL GROISMAN COFFEY BURLINGTON 2699 SOUTH BAYSHORE DRIVE, PENTHOUSE MIAMI, FL 33133 UNITED STATES ggroisman@coffyburlington.com, nsalas@coffeyburlington.com
Submission	Answer
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Date	03/21/2011
Attachments	Answer to Amended Notice of Opposition.pdf (3 pages)(108652 bytes)

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

HardCandy Cases, LLC,

Opposer,

v.

Hard Candy, LLC,

Applicant.

In Re: TM application Serial No. 77700557
For the Mark: Hard Candy
Published in the Official Gazette: 02/16/09

Opposition No. 91195327 (Parent)
Opposition No. 91195328

ANSWER TO AMENDED NOTICE OF OPPOSITION

Hard Candy, LLC (“Hard Candy” or “Applicant”), located and doing business at 6100 Hollywood Blvd., Seventh Floor, Hollywood, Florida, by and through undersigned counsel and pursuant to 37 C.F.R. 2.106, hereby answers Opposer HardCandy Cases, LLC’s Amended Notice of Opposition and raises its affirmative defenses thereto, as set forth below.

ANSWER

1. In response to paragraph 1, Hard Candy is without sufficient knowledge or information regarding the scope of Opposer’s business to form a belief as to the truth of falsity of the allegations of Paragraph 1, and, therefore, denies the same.

2. In response to paragraph 2, Hard Candy admits only that after Applicant submitted the intent-to-use application at issue, Opposer submitted an infringing application (Serial Number 77/917,147), but otherwise denies the remaining allegations in Paragraph 2. Further answering, on April 21, 2010 the USPTO examiner entered a Non-Final Action wherein, *inter alia*, it noted that “upon entry of a response to this Office action, action on this [HardCandy Cases] case may be suspended pending final disposition of the *earlier filed* applications.”

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3. In response to paragraph 3, Hard Candy denies that Opposer has standing to oppose the application at issue.

4. In response to paragraph 4, Hard Candy admits the allegations therein.

5. In response to paragraph 5, Hard Candy admits only that it is in the business of manufacturing, distributing and selling cosmetics, but otherwise denies the remaining allegations in Paragraph 5 as this is not an all-inclusive description of Hard Candy's business.

6. In response to paragraph 6, Hard Candy denies the allegations therein.

7. In response to paragraph 7, Hard Candy denies the allegations therein. Further answering, Applicant has a bona fide intent to use the HARD CANDY mark in connection with the goods and/or services identified in its March 27, 2009 applications, one of which is in fact registered (No. 3695602), contrary to the allegations in Paragraph 7.

8. In response to paragraph 8, Hard Candy denies the allegations therein.

9. In response to paragraph 9, Hard Candy denies the allegations therein.

AFFIRMATIVE DEFENSES

1. Opposer lacks standing to bring this opposition.

2. Opposer fails to state a claim upon which relief can be granted.

3. Applicant has in fact had, and continues to have, a bona fide intent to use the HARD CANDY mark as described in the application at issue.

4. Waiver.

5. Applicant reserves the right to supplement its affirmative defenses.

Respectfully submitted,

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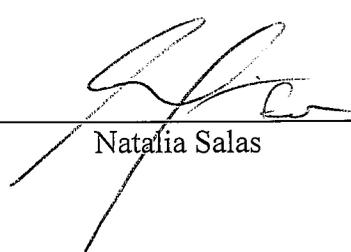
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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a true and correct copy of the foregoing was served on this 21st day of March, 2011, by First Class Mail, proper postage upon:

Stuart J. West
West & Associates, PC
3rd Floor
1255 Treat Blvd
Walnut Creek CA 94597



Natalia Salas