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

Proceeding	91196299
Party	Defendant Digitalmojo, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No. 77/714,693

Mark: CONNECT

CONNECT PUBLIC RELATIONS, INC., a Utah corporation. Opposer, v. DIGITALMOJO, INC., a California corporation Applicant.	Opposition No. 91196299 APPLICANT'S ANSWER

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant herein, Digitalmojo, Inc., by its attorney, responds as follows to the Notice of Opposition dated August 30, 2010, filed by Opposer herein, Connect Public Relations, Inc. Applicant denies any and all allegations in the Notice of Opposition not specifically admitted herein. In Answer to the Notice of Opposition, Applicant avers as follows (per numbered paragraph of the Notice of Opposition):

1. Responding to the allegations set forth in paragraph 1, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in Paragraph 1.

2. Responding to the allegations set forth in paragraph 2, Applicant admits it is a corporation duly organized under the laws of the State of California. The principal office for the business is located at 8910 University Center Lane, Suite 690, San Diego, CA 92122.

3. Responding to the allegations set forth in paragraph 3, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities,

and on that basis Applicant denies each and every allegation contained in Paragraph 3..

4. Responding to the allegations set forth in paragraph 4, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 4.

5. Responding to the allegations set forth in paragraph 5, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 5.

6. Responding to the allegations set forth in paragraph 6, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 6.

7. Responding to the allegations set forth in paragraph 7, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 7.

8. Responding to the allegations set forth in paragraph 8, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 8.

9. Responding to the allegations set forth in paragraph 9, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 9.

10. Responding to the allegations set forth in paragraph 10, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in

paragraph 10, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 10

11. Responding to the allegations set forth in paragraph 11, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 11.

12. Responding to the allegations set forth in paragraph 12, Applicant agrees to refer to Opposer's Marks collectively as "Connect PR Marks."

13. Responding to the allegations set forth in paragraph 13, Applicant received printouts attached to the Notice of Opposition.

14. Responding to the allegations set forth in paragraph 14, Applicant admits it filed application, serial number 77/714,693 for the mark CONNECT, on April 15, 2009, and identified goods and services as set out in the Notice of Opposition at paragraph 14.

15. Responding to the allegations set forth in paragraph 15, Applicant admits it filed the application, as described in paragraph 14 of the Notice of Opposition, as an intent to use application under section 1(b) of the Lanham Act.

16. Responding to the allegations set forth in paragraph 16, Applicant admits the application filed, as described in paragraph 14, was published for opposition on March 2, 2010.

17. Responding to the allegations set forth in paragraph 17, Applicant admits Opposer requested an extension of time to file its Notice of Opposition which request was granted.

18. Responding to the allegations set forth in paragraph 18, Applicant admits Opposer requested an extension of time to file its Notice of Opposition which request was granted.

19. Responding to the allegations set forth in paragraph 19, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 19, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 19.

20. Responding to the allegations set forth in paragraph 20, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in

paragraph 20, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 20.

21. Responding to the allegations set forth in paragraph 21, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 21.

22. Responding to the allegations set forth in paragraph 22, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 22, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 22.

23. Responding to the allegations set forth in paragraph 23, Applicant acknowledges Opposer is incorporating by reference each and every allegation contained in the previous paragraphs of the Notice of Opposition.

24. Responding to the allegations set forth in paragraph 24, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 24, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 24.

25. Responding to the allegations set forth in paragraph 25, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 25, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 25.

26. Responding to the allegations set forth in paragraph 26, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 26.

27. Responding to the allegations set forth in paragraph 27, Applicant denies all allegations in paragraph 27.

28. Responding to the allegations set forth in paragraph 28, Applicant is without

knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 28, in that Applicant is without knowledge of Opposer, its trademark, goods, or activities, and on that basis Applicant denies each and every allegation contained in paragraph 28.

29. Responding to the allegations set forth in paragrah 29, Applicant denies Opposer will be damaged by the registration of U. S. Trademark Application No. 77/714693.

30. Responding to the allegations set forth in paragraph 30, Applicant acknowledges Opposer is incorporating by reference each and every allegation contained in the previous paragraphs of the Notice of Opposition.

31. Responding to the allegations set forth in paragraph 31, Applicant denies the '693 Application, when used in connection with the services in International Class 009 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

32. Responding to the allegations set forth in paragraph 32, Applicant denies Applicant's mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

33. Responding to the allegations set forth in paragraph 33, Applicant denies the goods recited in International Class 009 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR Marks.

34. Responding to the allegations set forth in paragraph 34, Applicant prays the '693 Application be allowed registration under 15 U.S.C. §1052(d) and this Opposition be dismissed.

35. Responding to the allegations set forth in paragraph 35, Applicant acknowledges Opposer is incorporating by reference each and every allegation contained in the previous paragraphs of the Notice of Opposition.

36. Responding to the allegations set forth in paragraph 36, Applicant denies the '693 Application, when used in connection with the services in International Class 035 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

37. Responding to the allegations set forth in paragraph 37, Applicant denies Applicant's proposed CONNECT mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

38. Responding to the allegations set forth in paragraph 37, Applicant denies the services recited in International Class 035 as specified in the '693 application are identical, similar or related to the goods and services of the ConnectPR Marks.

39. Responding to the allegations set forth in paragraph 39, Applicant prays the '693 Application be allowed registration under 15 U.S.C. §1052(d) and this Opposition be dismissed.

40. Responding to the allegations set forth in paragraph 40, Applicant acknowledges Opposer is incorporating by reference each and every allegation contained in the previous paragraphs of the Notice of Opposition.

41. Responding to the allegations set forth in paragraph 41, Applicant denies its proposed CONNECT mark, when used in connection with the services in International Class 038 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

42. Responding to the allegations set forth in paragraph 42, Applicant denies its proposed CONNECT mark is similar to the ConectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

43. Responding to the allegations set forth in paragraph 43, Applicant denies the services recited in International Class 038 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR Marks.

44. Responding to the allegations set forth in paragraph 44, Applicant prays the '693 Application be allowed registration under 15 U.S.C. §1052(d) and this Opposition be dismissed.

45. Responding to the allegations set forth in paragraph 45, Applicant acknowledges Opposer is incorporating by reference each and every allegation contained in the previous paragraphs of the Notice of Opposition.

46. Responding to the allegations set forth in paragraph 46, Applicant denies its proposed CONNECT mark, when used in connection with the services in International Class 042 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

47. Responding to the allegations set forth in paragraph 47, Applicant denies its proposed CONNECT mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

48. Responding to the allegations set forth in paragraph 48, Applicant denies the services recited in International Class 042 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR Marks.

49. Responding to the allegations set forth in paragraph 49, Applicant prays the '693 Application be allowed registration under 15 U.S.C. §1052(d) and this Opposition be dismissed.

50. Responding to the allegations set forth in paragraph 50, Applicant acknowledges Opposer is incorporating by reference each and every allegation contained in the previous paragraphs of the Notice of Opposition.

51. Responding to the allegations set forth in paragraph 51, Applicant denies its proposed CONNECT mark, when used in connection with the services in International Class 045 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

52. Responding to the allegations set forth in paragraph 52, Applicant denies its proposed CONNECT mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

53. Responding to the allegations set forth in paragraph 53, Applicant denies the services recited in International Class 042 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR Marks.

54. Responding to the allegations set forth in paragraph 54, Applicant prays the '693 Application be allowed registration under 15 U.S.C. §1052(d) and this Opposition be dismissed.

AFFIRMATIVE AND SPECIAL DEFENSES

Applicants hereby incorporate by reference numbered Paragraphs 1 through 54, inclusive, and the initial paragraph of this Answer.

55. On information and belief, Opposer has not used its alleged mark, and/or has not continuously used its alleged mark, and so Opposer has failed to establish and maintain a viable trademark right in its alleged mark.

56. On information and belief, Opposer knew or should have known of Applicants' use of Applicants' mark prior to Opposer's filing of its Notice of Opposition, but waited an unreasonable

period of time before filing such Notice. Opposer has therefore lost its right to now assert that it will be damaged by the registration of Applicants' mark under doctrines of acquiescence, estoppel, and laches.

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

WHEREFORE, Applicants respectfully pray:

a. Opposer's Notice of Opposition be dismissed in its entirety, with prejudice, and that Application Serial No. 77/714,693 be allowed to proceed to registration, and

b. Applicant be granted such further and additional relief as the Trademark Trial and Appeal Board deems proper and just.

Respectfully submitted,

Date: September 20, 2010

Thomas W. Cook, Reg. No. 38,849
Attorney for Applicant
3030 Bridgeway, Suite 425-430
Sausalito, California 94965
Telephone: 415-339-8550

CERTIFICATE OF SERVICE BY U.S. MAIL, 37 C.F.R. §2.119(a)

I hereby declare:

I am over the age of 18 years, and am not a party to the within cause. I am employed in Sausalito, California.

My business address is 3030 Bridgeway, Suite 425-430, Sausalito, California. My mailing address is P.O. Box 1989, Sausalito, California.

On the date first written below, I served a true copy of the attached document entitled:

APPLICANTS' ANSWER

by placing it in a sealed envelope and depositing it in the United States mail, first class postage fully prepaid, addressed to the following:

Clayton, Howarth & Cannon, P.C.
P. O. Box 1909
Sandy UT 84091-1909

Attention: Karl R. Cannon

I declare under penalty of perjury that the foregoing is true and correct. Executed at Sausalito, California .

September 20, 2010

Kay Horne