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Filing date: **09/13/2013**

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

Proceeding	91197359
Party	Defendant John Groat dba Holy Shirt!
Correspondence Address	ROBERT E PURCELL LAW OFFICE OF ROBERT E PURCELL PLLC 211 W JEFFERSON ST STE 24 SYRACUSE, NY 13202-2457 UNITED STATES rpurcell@repurcellaw.com
Submission	Other Motions/Papers
Filer's Name	Robert E. Purcell
Filer's e-mail	rpurcell@repurcellaw.com
Signature	/Robert E. Purcell/
Date	09/13/2013
Attachments	2013-09-13-Response-To-Order-To-Show-Cause.pdf(97090 bytes) 2013-09-13-Exhibits-A-D.pdf(643112 bytes)

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

In the Matter of Application Serial No. 77/960,296

-----x
SYRACUSE UNIVERSITY,

Opposer,

Opposition Nos.
91197359
91198141
91201041

-vs-

JOHN GROAT
D/B/A HOLY SHIRT!,

Applicant.

-----x

RESPONSE TO ORDER TO SHOW CAUSE

Applicant, John Groat, hereby responds to the Notice of Default and Order to Show Cause dated August 15, 2013.

The TTAB issued a Notice of Default and Order to Show Cause dated August 15, 2013 requiring Applicant to explain why judgment by default should not be entered against Applicant. The basis for the Notice of Default and Order to Show Cause is that Applicant did not file or serve an answer to the oppositions by July 27, 2013, the date set forth for such action in a TTAB scheduling order dated July 3, 2013.

The reason that no answer was filed or served is that Applicant's attorney of record and his law firm were not aware of the scheduling order dated July 3, 2013 until receiving the Notice of Default and Order to Show Cause. The scheduling order was never received in the mail. See the Declaration of Allison Collins attached hereto

as Exhibit A. Applicant has attached hereto proposed Answers to each of the three consolidated oppositions as Exhibits B, C, and D.

Applicant submits that the delay in filing an answer was not the result of willful conduct or gross negligence on the part of the Applicant. Applicant submits that Opposer will not be substantially prejudiced by the delay, since the consolidated oppositions have already been delayed for about two years in view of other co-pending opposition proceedings involving Opposer and some of the same trademarks and registrations being asserted in the instant opposition proceeding. Applicant believes that it has a meritorious defense to the instant opposition, as reflected in the attached, proposed Answers.

Applicant believes that the foregoing shows good cause why default judgment should not be entered against Applicant. *See* TBMP § 312.02. Accordingly, Applicant prays that the Board sets aside the Notice of Default and asks that the attached Answers be accepted.

Respectfully submitted,
The Law Office of Robert E. Purcell, PLLC

Date: September 13, 2013

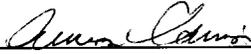
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Robert E. Purcell, Esq.
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rpurcell@repurcelllaw.com – E-mail

ATTORNEY FOR APPLICANT,
JOHN GROAT d/b/a HOLY SHIRT!

CERTIFICATE OF SERVICE

I certify that on the 13 day of September, 2013 a copy of the foregoing RESPONSE TO ORDER TO SHOW CAUSE was sent by e-mail and First Class U.S. Mail, to the following:

George McGuire
Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, New York 13202
gmcguire@bsk.com



Allison Collins

EXHIBIT A

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

In the Matter of Application Serial No. 77/960,296

-----x
SYRACUSE UNIVERSITY,

Opposer,

Opposition Nos.
91197359
91198141
91201041

-vs-

JOHN GROAT
D/B/A HOLY SHIRT!,

Applicant.

-----x

DECLARATION OF ALLISON COLLINS

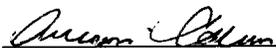
I, Allison Collins, hereby state, swear, and affirm as follows:

1. I have been employed as an administrative assistant and as a legal secretary for The Law Office of Robert E. Purcell, PLLC since November 5, 2009.
2. As part of my employment duties, I have habitually retrieved on a daily basis the mail from the law firm's mailbox located in the lobby of the building in which the law firm's offices are located.
3. Starting in about the late spring of 2013, the firm's mail delivery became unreliable and erratic. Other companies located in the same building as the law firm often contacted us to report that mail directed and intended for the law firm had been delivered to the other company instead. Likewise, the mail

within the firm's mailbox often contained mail directed to some other company within the building.

4. In August, 2013 we noticed that we had not received a monthly health insurance invoice that the firm had habitually received on a monthly basis for years. We contacted the insurance carrier to arrange for payment of the monthly invoice without ever having received the invoice in the mail.
5. I have no recollection of ever having received in the mail the TTAB's Scheduling Order dated July 3, 2013 in connection with the above-captioned trademark opposition proceeding, and can state affirmatively that my recollection is that the firm never received any such Scheduling Order.
6. The first time I personally became aware of the Scheduling Order was when the law firm received in the mail an order to show cause dated August 15, 2013 in connection with the above-captioned trademark opposition proceeding. Also, to my knowledge, attorney Robert Purcell's first knowledge of the Scheduling Order was upon receipt of the order to show cause.

I declare under penalty of perjury that the foregoing is true and correct.

 _____

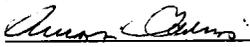
Allison Collins

Executed in Syracuse, New York, USA on September 13, 2013

CERTIFICATE OF SERVICE

I certify that on the 13 day of September, 2013 a copy of the foregoing DECLARATION OF ALLISON COLLINS was sent by e-mail and First Class U.S. Mail, to the following:

George McGuire
Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, New York 13202
gmcguire@bsk.com



Allison Collins

EXHIBIT B

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

In the Matter of Application Serial No. 77/960,296

-----x
SYRACUSE UNIVERSITY,

Opposer,

Opposition No.
91201041

-vs-

JOHN GROAT
D/B/A HOLY SHIRT!,

Applicant.

-----x
**ANSWER TO NOTICE OF OPPOSITION FOR OPPOSITION NO.
91201041**

Applicant, John Groat, hereby states his answer to the Notice of Opposition in connection with Opposition No. 91201041 as follows. The responses set forth in the numbered paragraphs below correspond with the averments in the same numbered paragraphs in the Notice of Opposition.

1. Applicant denies that Opposer has used or has any rights in any so-called "family of marks with the word 'ORANGE'" either alone or in combination with other words and/or design elements and denies that Opposer has used or has any rights in any so-called "ORANGE family of marks" or "family of ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 1. of the Notice of Opposition, and therefore denies the same.

2. Applicant denies that Opposer has used or has any rights in any so-called "ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 2. of the Notice of Opposition, and therefore denies the same.

3. Applicant denies that Opposer has used or has any rights in any so-called "ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 3. of the Notice of Opposition, and therefore denies the same.

4. Applicant admits the averments in paragraph 4. in the Notice of Opposition.

5. Applicant admits the averments in paragraph 5. in the Notice of Opposition.

6. Applicant denies the averments in paragraph 6. in the Notice of Opposition.

7. Applicant admits that the goods recited in Applicant's application for registration of the trademark "I BLEED ORANGE" are the same or similar to some of the goods recited in the applications and registrations itemized in paragraph 1. of the Notice of Opposition, but Applicant denies the remaining averments in paragraph 7. in the Notice of Opposition.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 8. of the Notice of Opposition, and therefore denies the same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 9. of the Notice of Opposition, and therefore denies the same.

10. Applicant denies the averments in paragraph 10. of the Notice of Opposition.

11. Applicant admits that it has been licensed by The Collegiate Licensing Company to manufacture and sell merchandise utilizing certain trademarks purportedly owned by Opposer. Applicant denies the remaining averments in paragraph 11. of the Notice of Opposition.

12. Applicant denies the averments in paragraph 12. of the Notice of Opposition.

13. Applicant denies the averments in paragraph 13. of the Notice of Opposition.

14. Applicant denies the averments in paragraph 14. of the Notice of Opposition.

15. Applicant denies the averments in paragraph 15. of the Notice of Opposition.

16. Applicant denies the averments in paragraph 16. of the Notice of Opposition.

17. Applicant denies the averments in paragraph 17. of the Notice of Opposition.

18. Applicant denies the averments in paragraph 18. of the Notice of Opposition, and respectfully requests that the Opposition be denied and that Applicant's application for registration be granted.

Defenses

1. Opposer has acquiesced in and consented to uses and federal registrations of other entities respecting the term "ORANGE", including trademarks that incorporate such term, in connection with a wide variety of services and items, including items such as those set forth in Applicant's application for registration of "I BLEED ORANGE". In some instances, Opposer has entered into co-existence

agreements that expressly consent to such third party uses and/or registrations of the term “ORANGE”, including trademarks that incorporate such term.

2. As a consequence of such acquiescence and consent Opposer’s alleged rights in trademarks including in any part the term “ORANGE” are extremely circumscribed by acquiescence, estoppel, and abandonment.

Prayer For Relief

Wherefore, Applicant respectfully requests that the Opposition be dismissed and that Applicant’s application for registration for “I BLEED ORANGE” be granted.

Respectfully submitted,
The Law Office of Robert E. Purcell, PLLC

Date: September 13, 2013

/Robert E. Purcell/
Robert E. Purcell, Esq.
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rpurcell@repurcelllaw.com – E-mail

ATTORNEY FOR APPLICANT,
JOHN GROAT d/b/a HOLY SHIRT!

CERTIFICATE OF SERVICE

I certify that on the 13 day of September, 2013 a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION FOR OPPOSITION NO. 91201041 was sent by e-mail and First Class U.S. Mail, to the following:

George McGuire
Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, New York 13202
gmcguire@bsk.com



Allison Collins

EXHIBIT C

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

In the Matter of Application Serial No. 77/960,296

-----x
SYRACUSE UNIVERSITY,

Opposer,

Opposition No.
91198141

-vs-

JOHN GROAT
D/B/A HOLY SHIRT!,

Applicant.

-----x
**ANSWER TO NOTICE OF OPPOSITION FOR OPPOSITION NO.
91198141**

Applicant, John Groat, hereby states his answer to the Notice of Opposition in connection with Opposition No. 91198141 as follows. The responses set forth in the numbered paragraphs below correspond with the averments in the same numbered paragraphs in the Notice of Opposition.

1. Applicant denies that Opposer has used or has any rights in any so-called "family of marks with the word 'ORANGE'" either alone or in combination with other words and/or design elements and denies that Opposer has used or has any rights in any so-called "ORANGE family of marks" or "family of ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 1. of the Notice of Opposition, and therefore denies the same.

2. Applicant denies that Opposer has used or has any rights in any so-called "ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 2. of the Notice of Opposition, and therefore denies the same.

3. Applicant denies that Opposer has used or has any rights in any so-called "ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 3. of the Notice of Opposition, and therefore denies the same.

4. Applicant admits the averments in paragraph 4. in the Notice of Opposition.

5. Applicant admits the averments in paragraph 5. in the Notice of Opposition.

6. Applicant denies the averments in paragraph 6. in the Notice of Opposition.

7. Applicants admits that the goods recited in Applicant's application for registration of the trademark "ORANGE NATION" are the same or similar to some of the goods recited in the applications and registrations itemized in paragraph 1. of the Notice of Opposition, but Applicant denies the remaining averments in paragraph 7. in the Notice of Opposition.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 8. of the Notice of Opposition, and therefore denies the same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 9. of the Notice of Opposition, and therefore denies the same.

10. Applicant admits that it has been licensed by The Collegiate Licensing Company to manufacture and sell merchandise utilizing certain trademarks

purportedly owned by Opposer. Applicant denies the remaining averments in paragraph 10. of the Notice of Opposition.

11. Applicant denies the averments in paragraph 11. of the Notice of Opposition.

12. Applicant denies the averments in paragraph 12. of the Notice of Opposition.

13. Applicant denies the averments in paragraph 13. of the Notice of Opposition.

14. Applicant denies the averments in paragraph 14. of the Notice of Opposition.

15. Applicant denies the averments in paragraph 15. of the Notice of Opposition.

16. Applicant denies the averments in paragraph 16. of the Notice of Opposition.

Defenses

1. Opposer has acquiesced in and consented to uses and federal registrations of other entities respecting the term “ORANGE”, including trademarks that incorporate such term, in connection with a wide variety of services and items, including items such as those set forth in Applicant’s application for registration of “ORANGE NATION”. In some instances, Opposer has entered into co-existence agreements that expressly consent to such third party uses and/or registrations of the term “ORANGE”, including trademarks that incorporate such term.

2. As a consequence of such acquiescence and consent Opposer’s alleged rights in trademarks including in any part the term “ORANGE” are extremely circumscribed by acquiescence, estoppel, and abandonment.

Prayer For Relief

Wherefore, Applicant respectfully requests that the Opposition be dismissed and that Applicant's application for registration for "ORANGE NATION" be granted.

Respectfully submitted,
The Law Office of Robert E. Purcell, PLLC

Date: September 13, 2013

/Robert E. Purcell/
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(315) 671-0711 – Fax
rpurcell@repurcelllaw.com – E-mail

ATTORNEY FOR APPLICANT,
JOHN GROAT d/b/a HOLY SHIRT!

CERTIFICATE OF SERVICE

I certify that on the 13 day of September, 2013 a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION FOR OPPOSITION NO. 91198141 was sent by e-mail and First Class U.S. Mail, to the following:

George McGuire
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One Lincoln Center
Syracuse, New York 13202
gmcguire@bsk.com

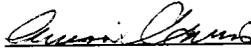

Allison Collins

EXHIBIT D

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

In the Matter of Application Serial No. 77/960,296

-----X
SYRACUSE UNIVERSITY,

Opposer,

Opposition No.
91197359

-vs-

JOHN GROAT
D/B/A HOLY SHIRT!,

Applicant.
-----X

**ANSWER TO NOTICE OF OPPOSITION FOR OPPOSITION NO.
91197359**

Applicant, John Groat, hereby states his answer to the Notice of Opposition in connection with Opposition No. 91197359 as follows. The responses set forth in the numbered paragraphs below correspond with the averments in the same numbered paragraphs in the Notice of Opposition.

1. Applicant denies that Opposer has used or has any rights in any so-called "family of marks with the word 'ORANGE'" either alone or in combination with other words and/or design elements and denies that Opposer has used or has any rights in any so-called "ORANGE family of marks" or "family of ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 1. of the Notice of Opposition, and therefore denies the same.

2. Applicant denies that Opposer has used or has any rights in any so-called "ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 2. of the Notice of Opposition, and therefore denies the same.

3. Applicant denies that Opposer has used or has any rights in any so-called "ORANGE marks". Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 3. of the Notice of Opposition, and therefore denies the same.

4. Applicant admits the averments in paragraph 4. in the Notice of Opposition.

5. Applicant admits the averments in paragraph 5. in the Notice of Opposition with respect to the mark "ORANGE OUT", but denies any remaining averments in paragraph 5. of the Notice of Opposition.

6. Applicant denies the averments in paragraph 6. in the Notice of Opposition.

7. Applicant admits that the goods recited in Applicant's application for registration of the trademark "ORANGE OUT" are the same or similar to some of the goods recited in the applications and registrations itemized in paragraph 1. of the Notice of Opposition, but Applicant denies the remaining averments in paragraph 7. in the Notice of Opposition.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 8. of the Notice of Opposition, and therefore denies the same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 9. of the Notice of Opposition, and therefore denies the same.

10. Applicant denies the averments in paragraph 10. of the Notice of Opposition.

11. Applicant admits that it has been licensed by The Collegiate Licensing Company to manufacture and sell merchandise utilizing certain trademarks purportedly owned by Opposer. Applicant denies the remaining averments in paragraph 11. of the Notice of Opposition.

12. Applicant denies the averments in paragraph 12. of the Notice of Opposition.

13. Applicant denies the averments in paragraph 13. of the Notice of Opposition.

14. Applicant denies the averments in paragraph 14. of the Notice of Opposition.

15. Applicant denies the averments in paragraph 15. of the Notice of Opposition.

16. Applicant denies the averments in paragraph 16. of the Notice of Opposition.

17. Applicant denies the averments in paragraph 17. of the Notice of Opposition.

Defenses

1. Opposer has acquiesced in and consented to uses and federal registrations of other entities respecting the term "ORANGE", including trademarks that incorporate such term, in connection with a wide variety of services and items, including items such as those set forth in Applicant's application for registration of "ORANGE OUT". In some instances, Opposer has entered into co-existence agreements that expressly consent to such third party uses and/or registrations of the term "ORANGE", including trademarks that incorporate such term.

2. As a consequence of such acquiescence and consent Opposer's alleged rights in trademarks including in any part the term "ORANGE" are extremely circumscribed by acquiescence, estoppel, and abandonment.

Prayer For Relief

Wherefore, Applicant respectfully requests that the Opposition be dismissed and that Applicant's application for registration for "ORANGE OUT" be granted.

Respectfully submitted,
The Law Office of Robert E. Purcell, PLLC

Date: September 13, 2013

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ATTORNEY FOR APPLICANT,
JOHN GROAT d/b/a HOLY SHIRT!

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I certify that on the 13 day of September, 2013 a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION FOR OPPOSITION NO. 91197359 was sent by e-mail and First Class U.S. Mail, to the following:

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gmcguire@bsk.com



Allison Collins