

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

K-2 Corporation,

Opposer,

v.

SAVE THE CHILDREN FEDERATION, INC.

Applicant.

Opposition No. 91197498

Serial No. 77/906,268

ANSWER

Applicant, Save the Children Federation, Inc., a Connecticut not-for-profit corporation with its principal offices located at 54 Wilton Road, Westport, Connecticut 06880 ("Save the Children"), by its attorneys, answers the Notice of Opposition ("Notice") of Opposer, K-2 Corporation, as follows:

1. Applicant admits the allegations contained in Paragraph 1 of the Notice with the clarification that Applicant is a not-for-profit corporation.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice and therefore denies the same.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice and therefore denies the same.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice and therefore denies the same.



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5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice and therefore denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice and therefore denies the same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Notice and therefore denies the same.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice and therefore denies the same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Notice and therefore denies the same.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Notice and therefore denies the same.

11. Applicant admits that it would obtain at least a *prima facie* right to the exclusive use of the Mark K2K USA.ORG AND DESIGN if the opposed registration were granted; denies Opposer will be damaged by the registration; states that to the extent the remainder of the allegations in Paragraph 11 of the Notice constitute legal conclusions, a responsive pleading is not required, but to the extent a response is

required, is without knowledge or information sufficient to form a belief as to the truth of the allegations, and, therefore, denies the remainder of the allegation contained in Paragraph 11 of the Notice.

12. Applicant denies the allegations contained in Paragraph 12 of the Notice.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Notice and therefore denies the same.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Notice and therefore denies the same.

15. Applicant denies the allegations contained in Paragraph 15 of the Notice.

16. Applicant denies the allegations contained in Paragraph 16 of the Notice.

17. Applicant denies the allegations contained in Paragraph 17 of the Notice.

Affirmative Defenses

Applicant, without waiver, limitation, or prejudice, hereby asserts the following affirmative defenses:

First Affirmative Defense

There is no likelihood of confusion between Applicant's use of the mark K2K USA.ORG in connection with clothing, namely, t-shirts, neckties, jackets; children's playwear, namely, sweaters, pants, shorts, overalls, wind resistant jackets, jumpers and dresses; headgear, namely, baseball caps and Opposer's Mark for reasons including, but not limited to the following:

i) Applicant's Mark and Opposer's Mark are different in appearance, sound and meaning. Opposer's Mark, K2, only consists of one term whereas Applicant's Mark consists of two terms, "K2K" and "USA.ORG." Although the first word of Applicant's Mark, is comprised of both letters of Opposer's Mark, it includes the additional letter "K" and is followed by the additional term(s) USA.ORG. Moreover, Applicant's Mark appears in stylized form as two lines, with one on top of the other – the top line consists "K2K" in lower case letters with a heavy shadow effect, and the lower line consists of "USA" in upper case and ".ORG" in lower case. Furthermore, Opposer's Mark in the same class of goods appears as a word plus design.

ii) Opposer and Applicant offer different goods to different clientele, who would easily distinguish between the two companies. Opposer offers athletic clothing (e.g., "ski-specific wearables") to sports enthusiasts whereas Applicant offers clothing, such as children's t-shirts, to children involved with their charitable fundraising services, namely, promoting awareness of childhood poverty.

iii) Opposer and Applicant offer their goods through different trade channels. Upon information and belief, Opposer offers its goods through retailers specializing in sporting goods whereas Applicant's goods are available to individuals involved with their charitable fundraising services, namely, promoting awareness of childhood poverty.

iv) Upon information and belief, there have been no occurrences of actual confusion.

Second Affirmative Defense

The claims and alleged prayers for relief of Opposer are barred, in whole or in part, because the conduct of Applicant was at all times justified and privileged.

Third Affirmative Defense

The claims and alleged prayers for relief of Opposer are barred, in whole or in part, because Applicant acted in good faith and employed lawful, proper, and justified means to accomplish legitimate business objectives.

Fourth Affirmative Defense

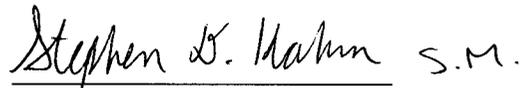
Applicant presently lacks sufficient knowledge or information on which to form a belief as to whether it may have available other, as yet unstated, additional and/or affirmative defenses. Applicant reserves the right to assert additional and/or affirmative defenses.

WHEREFORE, Applicant requests that the Board issue an order:

- A) Rejecting the notice of opposition;
- B) Directing the notice of allowance be issued for Applicant's Mark; and
- C) Awarding Applicant such other and further relief as the Board deems just and proper.

Dated: December 30, 2010

Respectfully submitted,

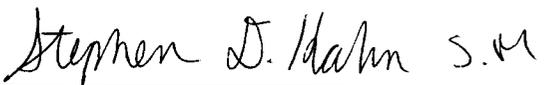


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*Attorneys for applicant Save the
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer to the Notice of Opposition is being mailed via first class mail, postage prepaid, to counsel for Opposer, Cindy Caditz, Davis Wright Tremaine LLP, 1201 Third Avenue, Suite 2200, Seattle, Washington 98101 on this the 30th day of December 2010.


Stephen D. Kahn

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