

ESTTA Tracking number: **ESTTA385820**

Filing date: **12/28/2010**

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

Proceeding	91197507
Party	Defendant FRANADS LLC
Correspondence Address	STEPHEN G. LEVY LEVY AND LEVY, P.C. 305 MADISON AVE STE 449 NEW YORK, NY 10165-0451 levylevylaw@aol.com
Submission	Answer
Filer's Name	Stephen G. Levy
Filer's e-mail	levylevylaw@aol.com
Signature	/Stephen G. Levy/
Date	12/28/2010
Attachments	Franads_AnswrOpp.pdf (4 pages)(294217 bytes)

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

_____)	
BLUE CROSS AND BLUE SHIELD)	
ASSOCIATION,)	
)	
Opposer,)	
)	Opposition No.: 91197507
v.)	
)	
FRANADS LLC,)	
)	
Applicant.)	
_____)	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant, by its attorneys, hereby submits his Answer to the Notice of Opposition, as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant admits the allegations contained therein.
2. Answering paragraph 2 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.
3. Answering paragraph 3 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

4. Answering paragraph 4 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

5. Answering paragraph 5 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

6. Answering paragraph 6 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

7. Answering paragraph 7 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

8. Answering paragraph 8 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

9. Answering paragraph 9 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

10. Answering paragraph 10 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

AFFIRMATIVE DEFENSES

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

12. There is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded mark of Opposer are not confusingly similar.

13. There is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark is not confusingly similar to the pleaded mark of Opposer. Any similarity, if at all,

between Applicant's mark and the pleaded mark of Opposer is in the use of a generic cross design which at certain times of use is shaded in a blue color, and which shade is not the same as that used by Applicant. As a result, Opposer cannot base any similarity between its pleaded mark and the mark of Applicant."

14. Applicant states that it intends to rely upon such other and further affirmative defenses and any other defenses at law or in equity that may become available or apparent in the future based on further proceedings in this case or any other factual investigation, and hereby reserves the right to amend its Answer to assert such defenses.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety.

Respectfully submitted,
FRANADS LLC,

By its Attorneys,



Stephen G. Levy

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315 Madison Avenue
Suite 901
New York, NY 10017

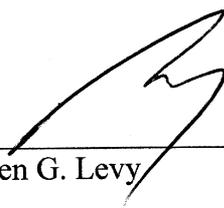
Tel: 212-631-1100
Fax: 212-631-1150

Dated: December 28, 2010

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed first-class mail, postage prepaid, to Garner K. Weng, of the firm of Hanson Bridgett LLP, 425 Market Street, 26th Floor, San Francisco, CA 94105, attorneys for Opposer, this 28th day of December, 2010.

Date: December 28, 2010



Stephen G. Levy