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

Proceeding	91197624
Party	Defendant CKM Holdings Inc.
Correspondence Address	MATTHEW J. SMITH POL SINELLI SHUGHART PC 100 S. FOURTH ST. SUITE 1100 ST. LOUIS, MO 63102 uspt@polsinelli.com
Submission	Answer
Filer's Name	Keith J. Grady
Filer's e-mail	uspt@polsinelli.com, kgrady@polsinelli.com, jchallis@polsinelli.com, msmith@polsinelli.com
Signature	/Keith J. Grady/
Date	01/07/2011
Attachments	CKM Answer.pdf (5 pages)(16536 bytes)

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

In the Matter of United States Trademark Application:

Mark: GENESIS BIOSCIENCES (and design)
Registrant: CKM HOLDINGS, INC.
Application No.: 77/832,463
Class Nos.: 001, 005, 040, 042
Published: August 3, 2010

23ANDME, INC.,

Opposer,

v.

CKM HOLDINGS, Inc.,

Applicant.

OPPOSITION NO.: 91197624

**ANSWER AND AFFIRMATIVE DEFENSES
TO OPPOSER'S NOTICE OF OPPOSITION**

Applicant CKM Holdings, Inc. ("Applicant"), by and through its undersigned counsel, pursuant to 37 C.F.R. 2.106 and Trademark Trial and Appeal Board Manual of Procedure ("TBMP") Rules 310 and 311, hereby submits its Answer and Affirmative Defenses to Opposer 23andMe, Inc.'s ("Opposer") Notice of Opposition related to United States Trademark Application No. 77/832,463 (the "463 Application") for GENESIS BIOSCIENCES (and design) (Applicant's Mark").

ANSWER TO NOTICE OF OPPOSITION

1. Applicant states that certain of the allegations of paragraph 1 contain legal conclusions to which no response is required. Applicant denies any allegations not specifically admitted.

2. Applicant admits that it filed the '463 Application. Applicant states that the '463 Application speaks for itself and denies any allegations inconsistent therewith. Applicant admits that the '463 Application was published for opposition on August 3, 2010, in the *Official Gazette*. Applicant denies any allegations not specifically admitted.

3. Applicant admits that it is a Delaware corporation having a place of business in Georgia. Applicant denies any allegations not specifically admitted.

4. Applicant is without sufficient information to admit or deny the allegations of this paragraph and therefore denies the same. Applicant denies any allegations not specifically admitted.

5. Applicant states that certain of the allegations of paragraph 5 contain legal conclusions to which no response is required. Applicant denies any allegations not specifically admitted.

6. Applicant is without sufficient information to admit or deny the allegations of this paragraph and therefore denies the same. Applicant denies any allegations not specifically admitted.

7. Applicant is without sufficient information to admit or deny the allegations of this paragraph and therefore denies the same. Applicant denies any allegations not specifically admitted.

8. Denied. Further answering, Applicant states that Applicant's Mark and those of Opposer must be taken as a whole and cannot be dissected or examined in part. Applicant's Mark and those of Opposer, when taken as a whole, are not likely to be confused given the differences in the word and design portions of those marks. Applicant denies any allegations not specifically admitted.

9. Denied. Further answering, Applicant states that Applicant's Mark and those of Opposer must be taken as a whole and cannot be dissected or examined in part. Applicant's Mark and those of Opposer, when taken as a whole, are not likely to be confused given the differences in the word and design portions of those marks. Applicant denies any allegations not specifically admitted.

10. Denied. Applicant states that the '463 Application speaks for itself and denies any allegations inconsistent therewith. Further answering, Applicant states that Applicant's Mark and those of Opposer must be taken as a whole and cannot be dissected or examined in part. Applicant's Mark and those of Opposer, when taken as a whole, are not likely to be confused given the differences in the word and design portions of those marks. Applicant denies any allegations not specifically admitted.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

AFFIRMATIVE DEFENSES

In addition to the answers provided above, Applicant asserts the following affirmative defenses in response to Opposer's Notice of Opposition. In so doing, Applicant incorporates by reference each and every paragraph of its answer as if fully set forth herein.

1. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted because, *inter alia*, Opposer's Notice of Opposition does not allege any proper grounds for opposition of the '463 Application.

2. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted because, *inter alia*, there is no likelihood of confusion between any mark owned by Opposer and the marks set forth in the '463 Application as the marks at issue are not similar in appearance, sound, connotation, or commercial impression.

3. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted because, *inter alia*, Opposer's marks are not famous and have not been diluted, in any way, by Applicant

4. Applicant reserves the right to supplement or otherwise add to its affirmative defenses of which it may become aware through discovery or otherwise.

PRAYER FOR RELIEF

WHEREFORE, Applicant CKM Holdings, Inc., having fully responded to Opposer 23andMe, Inc.'s Notice of Opposition and setting forth its affirmative defenses thereto, prays that the Board enter judgment in favor of Applicant and against Opposer and dismiss Opposer's Notice of Opposition with prejudice at Opposer's cost.

Dated: January 7, 2011

Respectfully submitted,

POLSINELLI SHUGHART PC

By: /Keith J. Grady/

KEITH J. GRADY
JOHN M. CHALLIS
MATTHEW J. SMITH
100 South Fourth Street, Suite 1000
St. Louis, Missouri 63102
Phone: (314) 889-8000
Facsimile: (314) 231-1776
E-Mails: kgrady@polsinelli.com
 jchallis@polsinelli.com
 msmith@polsinelli.com

ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was served by United States Mail, postage prepaid, this 7th day of January 2011, to:

Beth M. Goldman, Esq.
Kristin S. Cornuelle, Esq.
ORRICK HERRINGTON & SUTCLIFFE, LLP
405 Howard Street
San Francisco, CA 94105

Attorneys for Opposer

/Keith J. Grady/