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

Proceeding	91197758
Party	Defendant ASICS Corporation
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Submission	Answer
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Date	01/17/2011
Attachments	Answer.pdf (5 pages)(16056 bytes)

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

AMERICAN COUNCIL ON EXERCISE : Opposition No. 91197758
: :
Opposer, : Serial No. 85/035,659
: :
-vs- : Mark: GEL-ACE
: :
ASICS CORPORATION : **APPLICANT'S ANSWER TO**
: **NOTICE OF OPPOSITION**
: :
Applicant. :

TO THE HONORABLE COMMISSIONER OF PATENTS AND TRADEMARKS:

ASICS Corporation (“Applicant”), a corporation organized and existing under the laws of Japan, with its principal place of business at 1-1, Minatojima-Nakamachi 7-Chome, Chuo-ku, Kobe 650-8555 Japan, by way of Answer to the Notice of Opposition filed herein, responds as follows:

Except as hereinafter expressly admitted, qualified or otherwise answered, ASICS Corporation denies each and every allegation, matter, statement and thing asserted in the Notice of Opposition (the “Opposition”).

Answering the introductory paragraph, Applicant denies that Opposer will be damaged by the Applicant’s application.

1. Answering Paragraph 1, Applicant admits the allegations contained therein.

2. Answering Paragraph 2, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies same.

3. Answering Paragraph 3, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies same. However, Applicant states that the documents shown in Exhibit A speak for themselves.

4. Answering Paragraph 4, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies same. However, Applicant states that the documents shown in Exhibit B speak for themselves.

5. Answering Paragraph 5, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies same. However, Applicant states that the documents shown in Exhibit C speak for themselves.

6. Answering Paragraph 6, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies same. However, Applicant states that the documents shown in Exhibit D speak for themselves.

7. Answering Paragraph 7, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies same. However, Applicant states that the documents shown in Exhibit E speak for themselves.

8. Answering Paragraph 8, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies same. However, Applicant states that the documents shown in Exhibit F speak for themselves.

9. Answering Paragraph 9, Applicant admits that it filed the application that is the subject of this Opposition pursuant to Section 1(b) of the Trademark Act. Applicant is without

knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 9, and therefore denies same.

10. Answering Paragraph 10, Applicant denies the allegations contained therein.

11. Answering Paragraph 11, Applicant denies the allegations contained therein.

12. Answering Paragraph 12, Applicant denies the allegations contained therein.

13. Answering Paragraph 13, Applicant admits that if it is granted a registration for its GEL-ACE mark, it would obtain a prima facie exclusive right to use the mark. Except as specifically admitted, Applicant denies the remaining allegations in Paragraph 13.

14. Answering Paragraph 14, Applicant denies the allegations contained therein.

15. Answering Paragraph 15, Applicant denies the allegations contained therein.

16. Answering Paragraph 16, Applicant admits the allegations contained therein.

Applicant denies the innuendo in Paragraph 16 that Applicant requires a license, consent or permission from Opposer to use or register Applicant's GEL-ACE mark.

17. Answering Paragraph 17, Applicant denies the allegations contained therein.

Affirmative Defenses

1. The Opposition fails to state a claim against ASICS Corporation upon which relief can be granted.

2. The Opposition is barred by the equitable doctrines of estoppel, waiver, and/or laches.

3. Opposer lacks standing to bring this Notice of Opposition as it is not likely to be damaged by the continuing registration of the GEL-ACE mark.

WHEREFORE, Applicant respectfully submits that the Notice of Opposition be dismissed, with prejudice, and that its Application Serial No. 85/035,659, for the mark GEL-ACE, be approved for registration.

Respectfully Submitted,

By: /Mark C. Schollaert/
Mark C. Schollaert
ASICS America Corporation
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Irvine, CA 92618
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Attorney for Applicant

Dated: January 17, 2011

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer to Notice of Opposition is being served upon counsel for the Opposer, David P. Branfman, Mark I. Reichenthal, BRANFMAN LAW GROUP, P.C., 708 Civic Center Drive, Oceanside, CA 92054, by First Class mail, postage prepaid, on the 17th day of January 2011.

/Mark C. Schollaert/
Mark C. Schollaert

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this correspondence is being transmitted by electronic mail via ESTTA to the United States Patent and Trademark Office on the 17th day of January 2011.

/Mark C. Schollaert/
Mark C. Schollaert