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Filing date: **01/24/2011**

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

Proceeding	91197848
Party	Defendant Hawke & Company Outfitters LLC
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Submission	Answer
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Date	01/24/2011
Attachments	answeroppHD114b.pdf ( 4 pages )(50808 bytes )

**HD-114B**

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

<b>RETAIL ROYALTY COMPANY,</b>	)	
	)	
<b>Opposer,</b>	)	<b>Application No. 77/969,536</b>
	)	
<b>v.</b>	)	<b>Opposition No. 91197848</b>
	)	
<b>HAWKE &amp; CO. OUTFITTERS</b>	)	
<b>LLC,</b>	)	
	)	
<b>Applicant.</b>	)	
-----	<b>X</b>	

**ANSWER TO NOTICE OF OPPOSITION**

Hawke & Company Outfitters, LLC (“Applicant”), by its attorneys Malina & Associates, PLLC, hereby answers the Notice of Opposition as follows:

1. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 1 and therefore denies the same.
2. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 2 and therefore denies the same.
3. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 3 and therefore denies the same.
4. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 4 and therefore denies the same.
5. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 5 and therefore denies the same.

6. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 6 and therefore denies the same.

7. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 7 and therefore denies the same.

8. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 8 and therefore denies the same.

9. Admits that Applicant filed, the application herein opposed, Application No. 77/969,536, and denies the remaining allegations in Paragraph 9.

10. Admitted.

11. Applicant denies allegations contained in Paragraph 11.

12. Applicant denies that its mark includes the name of a bird and denies knowledge or information sufficient to form a belief as to the remaining allegations contained in Paragraph 12 and therefore denies the same.

13. Applicant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 13 and therefore denies the same.

14. Applicant denies allegations contained in Paragraph 14.

15. Applicant denies allegations contained in Paragraph 15.

16. Applicant denies allegations contained in Paragraph 16.

#### **FIRST AFFIRMATIVE DEFENSE**

17. The Notice of Oppositions fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

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

**THIRD AFFIRMATIVE DEFENSE**

19. There is no likelihood of confusion, mistake or deception, because the depiction of a bird in flight is commonly used as a trademark element by third parties on a wide variety of goods and services, including clothing.

**FOURTH AFFIRMATIVE DEFENSE**

20. The term HAWKE, in Applicant's mark, has no meaning in the English language.

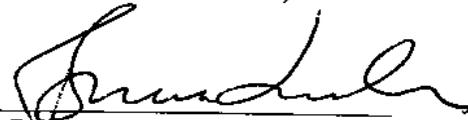
WHEREFORE, Applicant prays that the Notice of Opposition be dismissed and that a Notice of Allowance issue to Applicant for its mark.

Dated: January 24, 2011

Respectfully submitted,

MALINA & ASSOCIATES, PLLC

By: \_\_\_\_\_

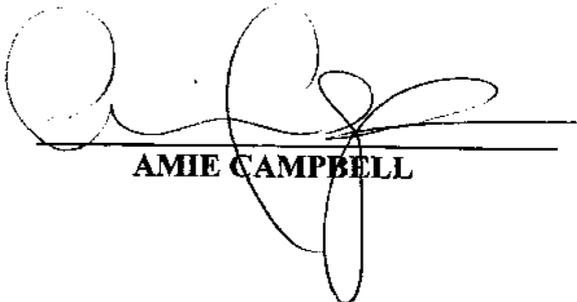
  
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Attorneys for Applicant  
[bmalina@malinalaw.com](mailto:bmalina@malinalaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** was served upon counsel for Opposer via U.S. Postal Service, first class mail, postage prepaid, at the address shown below:

**Kristin G. Garris, Esq.  
Kilpatrick Stockton, LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101**

this 24<sup>th</sup> day of January, 2011.



AMIE CAMPBELL