

ESTTA Tracking number: **ESTTA430040**

Filing date: **09/13/2011**

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

Proceeding	91201109
Party	Defendant M/S. INDEUTSCH INTERNATIONAL
Correspondence Address	MAX VERN AMSTER, ROTHSTEIN & EBENSTEIN LLP 90 PARK AVE NEW YORK, NY 10016-1301 ptodocket@arelaw.com
Submission	Answer
Filer's Name	Holly Pekowsky
Filer's e-mail	ptodocket@arelaw.com
Signature	/Holly Pekowsky/
Date	09/13/2011
Attachments	Answer and Affirmative Defenses to Notice of Opposition - KNITPRO.pdf (5 pages)(179634 bytes)

allegations contained in Paragraph 4 of the Notice of Opposition, and, accordingly, denies the same.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice of Opposition, and, accordingly, denies the same.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice of Opposition, and, accordingly, denies the same.

7. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Notice of Opposition, and, accordingly, denies the same.

8. Applicant admits the truth of the allegations contained in Paragraph 8 of the Notice of Opposition except denies that on January 20, 2009 when Applicant filed its Application, the goods and services were described in the manner alleged in Paragraph 8 of the Notice of Opposition.

9. Applicant denies the truth of the allegations contained in Paragraph 9 of the Notice of Opposition.

10. Applicant denies the truth of the allegations contained in Paragraph 10 of the Notice of Opposition.

11. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Notice of Opposition, and, accordingly, denies the same.

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

13. Applicant denies the truth of the allegations contained in Paragraph 13 of the Notice of Opposition.

14. Applicant denies the truth of the allegations contained in Paragraph 14 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

1. Upon information and belief, Opposer's use of KNITPRO has been de minimis, and insufficient to accord her any rights in KNITPRO under any theory, including, without limitation, common law trademark rights and/or use analogous to trademark use.

2. Upon information and belief, Opposer's use of KNITPRO has not been commercial, and therefore, such use is insufficient to accord her any rights in KNITPRO under any theory, including, without limitation, common law trademark rights and/or use analogous to trademark use.

3. Upon information and belief, there is no likelihood of confusion between Applicant's applied for mark and Opposer's use of KNITPRO since the respective goods/services are sufficiently different to avoid confusion.

4. Upon information and belief, there is no likelihood of confusion between Applicant's mark and Opposer's use of KNITPRO since the respective marks are sufficiently different to avoid confusion.

5. Upon information and belief, there is no likelihood of confusion since the parties' respective channels of trade are different.

6. Opposer's claims are barred by the doctrine of unclean hands.

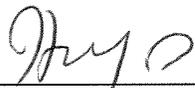
7. Opposer has failed to state a claim upon which relief may be granted.
8. Upon information and belief, Opposer's claims are barred under the doctrine of equitable estoppel.
9. Applicant has insufficient information upon which to form a belief as to whether it may have additional unstated Affirmative Defenses. Applicant reserves the right to assert additional Affirmative Defenses in the event discovery indicates that they are appropriate.

WHEREFORE, Applicant requests that this Opposition be denied in all respects.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicant
90 Park Avenue
New York, New York 10016
(212) 336-8000

Dated: New York, New York
September 13, 2011

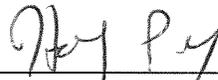
By: 

Anthony F. Lo Cicero
Holly Pekowsky

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is one of the attorneys for Applicant M/S. Indeutsch International in the above-captioned Opposition proceeding and that on the date which appears below, she caused a copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION to be served on the attorneys for Opposer Catherine A. Mazza by first class mail by causing a copy thereof to be placed in a depository under the care and custody of the United States Postal Service, in the State of New York, postage pre-paid, in a wrapper addressed as follows:

Michelle K. Riley, Esq.
Powley & Gibson PC
304 Hudson Street, Second Floor
New York, NY 10013



Holly Pekowsky

Dated: New York, New York
September 13, 2011