TTAB

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October 14, 2011

USPTO/TTAB
P.O. Box 1451
Alexandria, Virginia 22313-1451

Re: No Fear USA Limited v. Fear is No Opposition
Opposition Number: 91201483

Dear Sir/Madame:

Please be advised that I represent the Applicant in the above referenced proceeding. Enclosed herewith is Applicant's Answer which has been timely filed and served. Thank you for your time and courtesy regarding this matter.

Respectfully submitted,

Daniel M. Bauso

DMB/ld
Enc.

cc: James Scott, Esq. (Counsel for Opposer)

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

In the matter of application Serial No. 85258708
Published in the Official Gazette on July 26, 2011

No Fear USA Limited	)
	)
Opposer,	)
	)
	) Opposition No.: 91201483
v.	)
	)
	)
Fear is No Option	)
	)
Applicant,	)
	)

ANSWER TO NOTICE OF OPPOSITION

The following is the Answer of Applicant, FEAR IS NO OPTION, LLC. (Applicant), owner of Federal Trademark Application Serial No. 85258708 for the mark FEAR IS NO OPTION & accompanying design, by and through Counsel, THE LAW OFFICES OF DANIEL M. BAUSO, ESQ., to the Notice of Opposition filed on September 6, 2011 by NO FEAR USA LIMITED (hereinafter "Opposer") and assigned Opposition Number 91184467.

Applicant herby responds, solely for the purpose of this proceeding, to each of the grounds set forth in the Notice of Opposition, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 1 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written. Applicant must deny.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 2 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written. Applicant must deny.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 3 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written. Applicant must deny.

4. The allegations contained in paragraph 4 are admitted insofar as Applicant has properly filed its mark and was issued Serial No. 85258708.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 5 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written. Applicant must deny.

6. The allegations contained in paragraph 6 are denied.

7. The allegations contained in paragraph 7 are denied.

8. The allegations contained in paragraph 8 are denied.

9. The allegations contained in paragraph 9 are denied.

10. The allegations contained in paragraph 10 are denied.

FURTHERMORE, Applicant sets forth the following in support of tis defense:

11. Upon information and belief, Opposer's mark is not famous.

12. Upon information and belief, users of Applicant's goods are sophisticated purchasers.

13. Upon information and belief, users of Opposer's goods are sophisticated purchasers.

14. Applicant advertises, markets and sells its design marked products to a distinct class of purchasers, which are separate and apart from the purchasers of Opposer's goods.

15. Applicant's design mark is unique and distinctive.

16. Applicant's design mark and Opposer's mark are different in meaning.

17. Applicant's design mark and Opposer's mark are different in appearance.

18. Applicant's design mark and Opposer's mark are different in spelling.

19. Applicant's design mark and Opposer's design mark have very different commercial impressions.

20. Applicant's design mark and Opposer's mark are not likely to cause confusion, mistake or deception to purchasers as source of Opposer's goods.

21. Applicant's mark does not and cannot dilute Opposer's mark.

22. Applicant's mark does not falsely suggest a connection with Opposer's mark.

23. Upon information and belief there exists several registered trademarks which contain the terms or phrase "No Fear" for goods and products which are similar to those sold by Opposer without any disclaimer or claim of acquired distinctiveness regarding those terms.

24. Opposer's claims are barred by the doctrine of unclean hands or other applicable equitable principles.

25. Opposer has failed to maintain, police or enforce any trademark or proprietary rights it may have in tis alleged trademark.

26. To the extent Opposer has suffered and/or sustained any loss of value or diminution to its mark, same is due solely to Opposer's recent bankruptcy and/or corporate reorganization.

27. Applicant and Opposer advertise, market and sell different products to separate and distinct consumer markets and bases.

Applicant hereby appoints Daniel M. Bauso, Esq. a member of the Bar of the State of New York at the firm of

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to act as attorney in the matter of the opposition identified above, to prosecute said opposition, to transact all business in the Patent and Trademark Office, and in United States courts connected with the opposition, to sign his name to all papers which are hereinafter to be filed in connection therewith, and to receive all communications relating to the same.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board deny the Opposition and permit registration of Applicant's proposed mark in Application Serial Number 85258708 in the United States Patent and Trademark Office.

A duplicate copy of this Answer to Notice of Opposition has been sent via First Class Mail to counsel for Opposer on October 14, 2011.

Dated: Queens, New York
October 14, 2011

Respectfully Submitted,

By: _____

Daniel M. Bauso, Esq.
Attorney for Applicant

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the within Answer was sent and otherwise served by regular U.S. Mail, First Class, postage prepaid, on October 14, 2011, to counsel for Opposer at the following address:

James L. Scott, Esq.
Warner, Norcross & Judd, LLP
900 Fifth Third Center
111 Lyon Street N. W.
Grand Rapids, MI 49503
(616) 752-2469

By: _____
Daniel M. Bauso, Esq.
Attorney for Applicant

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CERTIFICATE OF MAILING

I hereby certify that a true copy of the within Answer was sent and otherwise served by regular U.S. Mail, First Class, postage prepaid, on October 14, 2011, and by certified mail/return receipt requested (copies annexed) to The United States Patent and Trademark Office, Trademark Trial and Appeals Board at the following address:

USPTO
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P.O. Box 1451
Alexandria, Virginia 22313-1451

By: _____
Daniel M. Bauso, Esq.
Attorney for Applicant

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