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

Proceeding	91202862
Party	Defendant LVMH Swiss Manufactures SA
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TECHNOLOGY ADVANCEMENT GROUP, INC.,	)	
	)	**Opposition No. 91202862**
Opposer,	)	
	)	
v.	)	
	)	
LVMH SWISS MANUFACTURES, SA,	)	
	)	
Applicant.	)	
	)	

APPLICANT LVMH SWISS MANUFACTURES, SA'S
ANSWER TO NOTICE OF OPPOSITION

Applicant LVMH Swiss Manufactures, SA (hereinafter "Applicant" or "LVMH"), by and through its undersigned counsel and in accordance with Rules 8 and 12 of the Federal Rules of Civil Procedure and the corresponding Trademark Rules of Practice, files this Answer to the Opposition filed herein by Technology Advancement Group, Inc. ("Opposer") and, in support thereof, respectfully shows as follows:

ANSWER

LVMH responds to the allegations of the numbered paragraphs of Opposer's Notice of Opposition as follows:

Opp. Para. 1. Opposer is the owner of U.S. Registration No. 2,1 06,170 ("the '170 Registration") for the mark TAG for the following goods: *computers, computer peripherals and computer software for use in scientific and engineering applications, and for use in office and business management applications*. The '170 Registration has attained incontestable status.

Answer to Opp. Para. 1. LVMH admits that the USPTO database indicates that the registration listed above was registered to Opposer for the goods listed above, admits that a declaration under section 15 of the Trademark Act relating to the registration was filed and

accepted by the USPTO, and states that LVMH is without knowledge or information sufficient to form a belief as to Opposer's actual use of the mark or entitlement to the registration and therefore denies the same.

Opp. Para 2. Opposer is the owner of U.S. Registration No. 3,113,307 ("the '307 Registration"), for the mark TAG for the following goods: *computer system services, namely computer system consulting, computer software programming, testing and development, and computer system integration, development, and design.*

Answer to Opp. Para. 2. LVMH admits that the USPTO database indicates that the registration listed above was registered to Opposer for the goods listed above, but LVMH is without knowledge or information sufficient to form a belief as to Opposer's actual use of the mark or entitlement to the registration and therefore denies the same.

Opp. Para. 3. Opposer is the owner of U.S. Registration No. 3,113,308 ("the '308 Registration") for the mark TAG for the following services*: providing multiple user access to a global computer information network and designing and implementing network web pages for others and hosting the web sites of others on a computer server for a global computer information network; and computer system services, namely computer system consulting, computer software programming, testing and development, and computer system integration, development and design.*

Answer to Opp. Para. 3. LVMH admits that the USPTO database indicates that the registration listed above was registered to Opposer for the services listed above, but LVMH is without knowledge or information sufficient to form a belief as to Opposer's actual use of the mark or entitlement to the registration and therefore denies the same.

Opp. to Para 4. Opposer is the owner of U.S. Registration No. 3,286,202 ("the '202 Registration") for the mark TAG and U.S. Registration No. 3,286,204 ("the '204 Registration"), for the mark TAG & Design, both for use in connection with the following goods and services: *computers, laptop computers; computer hardware; computer hardware for telecommunications, computer networking hardware; communications servers used as computer hardware; network access server hardware; computer software for application and database integration; computer network hubs, switches and routers; LAN (local area network) access points for connecting network computer users; computer storage devices, namely, hard drives, disc drives, flash drives, and RAIDS; flat panel displays; liquid crystal displays; computer monitors; computer keyboards; computer carrying cases; ruggedized computer carrying cases in* International Class ("IC") 09*; news bulletins; printed reference guides relating to computer hardware and computer software in* IC 16*; managing telecommunications networks for others; operation and*

administration of telecommunication systems and networks for others in IC 35*; repair or maintenance of computers; maintenance and repair of computer hardware; maintenance of computer and telecommunication networks for others in* IC 37*; training of specialists in the computer hardware and software industry; training in the field of customer service; training in the field of quality assurance; training in the field of knowledge management; training in the field of local area network and wide area network analysis, design and implementation; training the field of asset management; training the field of computer data backup recovery disaster; training the field of computer and telecommunication network configuration management; training in the field of computer facility and data center management in* IC 41*; technical support services, namely, troubleshooting of computer hardware and software problems; consulting services in the field of computer hardware and software; computer software design for others, consultation in the field of computer and information security; engineering; computer network engineering; telecommunications network engineering; communications engineering; mechanical engineering; electrical engineering; thermal engineering; technical support services, namely, troubleshooting of telecommunications hardware and software in* IC 42*; and consulting services in the field of maintaining the security and integrity of databases in* IC 45.

Answer to Opp. Para. 4. LVMH admits that the USPTO database indicates that the registrations listed above were registered to Opposer for the goods and services listed above, but LVMH is without knowledge or information sufficient to form a belief as to Opposer's actual use of the marks or entitlement to the registrations and therefore denies the same.

Opp. Para. 5. Opposer is the owner of U.S. Trademark Registration No. 3,113,317 ("the '317 Registration") for the mark TAG IS IT for the following services: *designing and implementing network web pages for others and hosting the web sites of others on a computer server for a global computer information network; and computer systems services, namely computer system consulting, computer software programming, testing and development, and computer system integration, development and design.*

Answer to Opp. Para 5. LVMH admits that the USPTO database indicates that the registration listed above was registered to Opposer for the services listed above, but LVMH is without knowledge or information sufficient to form a belief as to Opposer's actual use of the mark or entitlement to the registration and therefore denies the same.

Opp. Para. 6. Opposer is the owner of U.S. Trademark Registration No. 3,113,318 ("the '318 Registration") for the mark TAG COMMERCE for the following services: *providing online commerce services, namely, designing and implementing network web pages for others and hosting the web sites of others on a computer server for a global computer information network and computer system consulting, computer software programming, testing and development, and computer system integration development and design.*

Answer to Opp. Para. 6. LVMH admits that the USPTO database indicates that the registration listed above was registered to Opposer for the services listed above, but LVMH is without knowledge or information sufficient to form a belief as to Opposer's actual use of the mark or entitlement to the registration and therefore denies the same.

Opp. Para. 7. Opposer is the owner of U.S. Registration No. 3,888,425 ("the '425 Registration") for the mark TAG for the following services: *web portal development for others; computer software development; architecture analysis; military operation analysis services in the area of cyber security, namely, computer security consulting.*

Answer to Opp. Para. 7. LVMH admits that the USPTO database indicates that the registration listed above was registered to Opposer for the services listed above, states that the services listed above are not the complete list of services covered by the registration, and states that LVMH is without knowledge or information sufficient to form a belief as to Opposer's actual use of the mark or entitlement to the registration and therefore denies the same.

Opp. Para. 8. Opposer is the owner of pending Application No. 85266742 ("the '742 Application"), filed March 14, 2011 on an intent-to-use basis under Section 1(b) of the Trademark Act, to register the mark TAG COMMANDER for the following goods: *computer hardware; handheld personal computers.*

Answer to Opp. Para. 8. LVMH admits that the USPTO database indicates that the application listed above was filed by Opposer for the goods listed above, but LVMH is without knowledge or information sufficient to form a belief as to Opposer's actual use of the mark or entitlement to the registration sought by the application and therefore denies the same.

Opp. Para. 9. The marks set forth in the '170 Registration, '307 Registration, '308 Registration, '202 Registration, '204 Registration, '317 Registration, '318 Registration, '425 Registration and the '742 Application shall be referred to herein collectively as the "TAG Marks", and the aforementioned registrations shall collectively be referred to herein as "the TAG Registrations." As proof of title and status, attached hereto at Exhibit A, and incorporated by reference herein, are true and correct printouts of the PTO's TARR and Assignment records for the TAG Registrations and the '742 application.

Answer to Opp. Para. 9. LVMH admits that the documents attached as Exhibit A to Opposer's Notice of Opposition appear to be printouts from the USPTO's TARR and

Assignment records for registrations and an application owned by Opposer and states that LVMH is without knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 9 and therefore denies the same.

Opp. Para. 10. Opposer long has used the TAG Marks in commerce in connection with at least the goods and services set forth in the '170 registration, '307 registration , '308 registration, '202 registration, '204 registration, '317 registration, '318 registration, and '425 registration. As the result of Opposer's longstanding use of and investment of resources in the TAG Marks, Opposer has developed significant goodwill in the TAG Marks.

Answer to Opp. Para. 10. LVMH is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 10 and therefore denies the same.

Opp. Para. 11. On March 31, 2011, Applicant filed U.S. Application Serial No. 85/282081 (the "Opposed Application") on an intent-to-use basis under Section 1(b) of the Trademark Act to register the mark TAGL1NK for the following goods: *handheld mobile digital electronic devices for the sending and receiving of telephone calls, for use as a digital audio player, and for use as a camera; accessories for the foregoing, namely, fitted cases, protective covers, carrying holsters, headsets, headphones and earphones* ("Applicant's Goods").

Answer to Opp. Para. 11. LVMH admits that it filed an application on March 31, 2011 to register the mark TAGLINK as a trademark for the goods identified above, that the application was assigned serial number 85/282,081, that the application was filed based on LVMH's intent to use the mark, and denies the remaining allegations in Paragraph 11.

Opp. Para. 12. Opposer's use of the TAG Marks and/or the filing dates of the applications that matured into the TAG Registrations, and the filing date of the '742 Application, precede any rights of Applicant to the mark set forth in the Opposed Application.

Answer to Opp. Para. 12. Denied.

Opp. Para. 13. In view of the similarities between the TAG Marks and the TAGLINK mark that is the subject of the Opposed Application, and the relationship between the goods and services identified by the TAG Marks and Applicant's Goods, it is likely that members of the public will erroneously believe that Applicant's Goods originate with Opposer, or that Applicant's Goods are in some manner connected to, associated with or endorsed or sponsored by Opposer, all to the harm of Opposer's goodwill and reputation as symbolized by the TAG Marks.

Answer to Opp. Para. 13. Denied.

Opp. Para. 14. Applicant's use and registration of the mark set forth in the Opposed Application will create a likelihood of confusion, mistake and/or deception among consumers, within the meaning of Trademark Act § 2(d), all to the detriment of Opposer.

Answer to Opp. Para. 14. Denied.

Opp. Para. 15. If Applicant is granted registration of the subject mark, it would obtain a prima facie exclusive right to use of its mark that would cause damage and injury to Opposer.

Answer to Opp. Para. 15. Denied.

DEFENSES

FIRST DEFENSE

The mark TAGLINK is not likely to cause confusion with any of Opposer's marks.

SECOND DEFENSE

The term "tag" is not exclusively associated with Opposer.

THIRD DEFENSE

LVMH is the owner of a number of registrations that include the word TAG for a variety of goods and services and Opposer therefore will not be damaged by the issuance of a registration to LVMH for the mark TAGLINK.

FOURTH DEFENSE

The Opposition is barred, in whole or in part, by the doctrines of laches, waiver, acquiescence and/or estoppel.

FIFTH DEFENSE

The Opposition is barred, in whole or in part, by the doctrine of unclean hands.

* * *

LVMH denies each and every allegation of the Notice of Opposition not specifically admitted or otherwise specifically responded to herein. LVMH denies that it has violated or infringed any rights of Opposer, has violated any laws or statutes, or has engaged in any acts that have damaged Opposer. LVMH denies that Opposer is entitled to any relief against LVMH.

PRAYER FOR RELIEF

WHEREFORE, Applicant prays that:

1. the subject Opposition be dismissed and/or denied in its entirety;
2. judgment be entered in favor of LVMH on the Opposition and each and every claim and count thereof;
3. a registration be issued to LVMH for the mark TAGLINK, as applied for in application Serial No. 85/282,081; and
4. the Board issue such other and further relief as may be appropriate under the circumstances.

Dated: February 15, 2012
New York, New York

Respectfully submitted,
KING & SPALDING

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Answer to Notice of Opposition was served by United States Mail, First Class, by depositing it, postage prepaid, in a depository under the exclusive custody and control of the United States Postal Service, on February 15, 2012, addressed to Opposer's counsel of record as follows:

Scott J. Major
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Emily B. Brown