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

Proceeding	91202949
Party	Defendant Scholastic Inc.
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Submission	Answer
Filer's Name	Rachel Kronman
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Date	01/23/2012
Attachments	Mad Science Answer 91202949.pdf (5 pages)(63782 bytes)

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

Applicant	:	Scholastic Inc. 557 Broadway, New York, New York 10012
Trademark	:	DR. PHIZZ THE MAD SCIENCE WIZZ
Serial No.	:	85/258,024
Filed	:	March 4, 2011
Published	:	August 16, 2011
Class	:	028

2946033 CANADA INC.
DBA THE MAD SCIENCE GROUP,

Opposer,
-v-

SCHOLASTIC INC.

Applicant.

Opposition No. 91202949
Serial No. 85/258,024

ANSWER

Applicant, Scholastic Inc. ("Applicant"), by and through its attorneys, for its answer to the Notice of Opposition ("Opposition") commenced by 2946033 Canada Inc. d/b/a The Mad Science Group ("Opposer") states as follows:

1. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Opposition.
2. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2 of the Opposition.
3. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Opposition.

4. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4 of the Opposition.

5. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5 of the Opposition.

6. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 of the Opposition.

7. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 of the Opposition.

8. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 of the Opposition.

9. Applicant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9 of the Opposition.

10. Applicant admits that Applicant entered into a license agreement with Opposer in 1999 for Applicant to publish a book series incorporating the MAD SCIENCE name and other than that denies the allegations set forth in Paragraph 10 of the Opposition.

11. Applicant denies the allegations set forth in Paragraph 11 of the Opposition.

12. Applicant denies the allegations set forth in Paragraph 12 of the Opposition.

13. Applicant denies the allegations set forth in Paragraph 13 of the Opposition.

14. Applicant denies the allegations set forth in Paragraph 14 of the Opposition.

15. Applicant admits that Applicant entered into a license agreement with Opposer in 1999 and admits that the declaration, as it appears in Applicant's application, states "to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to

deceive," and other than that denies the allegations set forth in Paragraph 15 of the Opposition.

16. Applicant denies the allegations set forth in Paragraph 16 of the Opposition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

17. Opposer has failed to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

18. Opposer's claims are barred by the doctrine of laches, waiver, estoppels, and unclean hands.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

19. There is no likelihood of confusion between Applicant's DR. PHIZZ THE MAD SCIENCE WIZZ mark and Opposer's marks because the marks are distinct.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

20. There is no likelihood of confusion between Applicant's DR. PHIZZ THE MAD SCIENCE WIZZ mark and Opposer's marks because the goods and services for the respective marks are distinct.

WHERFORE, Applicant respectfully request:

1. That the Opposition be dismissed in its entirety;
2. That the Applicant be awarded its costs and attorneys' fees;
3. That the Applicant's Application Serial No. 85/258,024 be permitted to proceed to registration.

Dated: New York, New York

January 23, 2012

Respectfully submitted,

FRANKFURT KURNIT KLEIN & SELZ, PC

By: _____

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Attorneys for Applicant, Scholastic Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of January, 2012, I caused a copy of the foregoing submission to be served, by the means indicated below, upon:

VIA FIRST CLASS MAIL

David A. Bell
Attorney for Opposer
Haynes and Boone, LLP
2323 Victory Avenue, Suite 700

Rachel Kronman