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

|                           |   |
|---------------------------|---|
| Proceeding                | 91204608  |
| Party                     | Defendant<br>Fantasma Toys, Inc.  |
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| Date                      | 10/12/2012  |
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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| Chasing Fireflies, LLC,<br>Opposer,<br>vs.<br>Fantasma Toys, Inc.<br>Applicant | Opposition No. 91204608<br>ANSWER OF APPLICANT |
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Applicant, Fantasma Toys, Inc. (“Fantasma”), by and through its undersigned counsel, hereby answers the Notice of Opposition (the “Opposition”) filed by Opposer, Chasing Fireflies, LLC, a Washington limited liability company (“Chasing Fireflies”), as follows:

With respect to the first unnumbered paragraph of the Opposition, Fantasma that the Opposer is Chasing Fireflies LLC, a Washington limited liability company with its principal place of business at 350 Midland Drive, Seattle, WA 98188. To the extent that its description of itself as “Registrant” implies that Chasing Fireflies owns a registration for or any rights in the trademark “WISHCRAFT”, Fantasma denies the allegation here and throughout the Opposition.

With respect to the second unnumbered paragraph of the Opposition, Fantasma denies that Chasing Fireflies will be damaged if the registration of the trademark “WISHCRAFT,” Application Nos. 85398940 and 85399310, are permitted; denies any implication of this paragraph that Chasing Fireflies owns a registration for or any rights in the trademark “WISHCRAFT”; and is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations set forth therein and on that basis denies them.

1. In answer to Paragraph 1 of the Opposition: On the basis of the online records of the U.S. Patent and Trademark Office and of the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies owns Registration No. 3535068 for the trademark “WISHCRAFT”. Fantasma admits that the online records of the U.S. Patent and Trademark Office reflect that Registration No. 3535068 is for the trademark “WISHCRAFT” in Class 025 for “Men's Women's and Children's clothing, namely, pants, shirts, tee shirts, sweaters, jackets, pajamas, robes, nightgowns, infant-wear, bathing suits, blouses, coats, dresses, skirts, vests, shorts, hats, scarves, boots, raincoats, knit tops, sweatshirts, knit bottoms, woven bottoms, jumpers, booties, masquerade costumes, socks, and swim cover-ups”; and reflects a registration date of November 18, 2008, and a stated date of first use of October 1, 2007, (which Opposer misstates as October 10, 2007). Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

2. In answer to Paragraph 2 of the Opposition: On the basis of the online records of the U.S. Patent and Trademark Office and of the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies owns Registration No. 3435346 for the trademark “WISHCRAFT”. Fantasma admits that the online records of the U.S. Patent and Trademark Office reflect that Registration No. 3535068 is for the trademark “WISHCRAFT” in Class 035 for “Retail clothing store services; online retail store services featuring clothing; and mail order catalog services featuring clothing.”; and reflects a registration date of May 27, 2008, and a stated date of first use of October 1, 2006. Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

3. In answer to Paragraph 3 of the Opposition: Fantasma is without sufficient knowledge or information to form a belief as to whether the printouts attached as Exhibit A were true and correct at the time Chasing Fireflies filed the Opposition. On the basis of the online records of the U.S. Patent and Trademark Office and of the Securities and Exchange Commission, Fantasma denies that the printouts are true and correct as of the date of the filing of this Answer and denies that Chasing Fireflies owns any registrations for the trademark “WISHCRAFT”. With respect to the actual content of these printouts, Fantasma admits and denies as set forth above.

4. In answer to Paragraph 4 of the Opposition: On the basis of the online records of the U.S. Patent and Trademark Office and the Securities and Exchange Commission, Fantasma denies these allegations.

5. In answer to Paragraph 5 of the Opposition: Fantasma admits that there is a web site at the url <http://www.chasing-fireflies.com>. On the basis of the online records of the U.S. Patent and Trademark Office and the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies owns the domain names and or associated web sites [www.wishcraftcostumes.com](http://www.wishcraftcostumes.com) or [www.chasing-fireflies.com](http://www.chasing-fireflies.com); and that Chasing Fireflies currently sells any products. Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

6. In answer to Paragraph 6 of the Opposition: On the basis of the online records of the U.S. Patent and Trademark Office and the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies currently owns any web sites or issues any catalogs. Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and on that basis denies all of them.

7. In answer to Paragraph 7 of the Opposition: Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and on that basis denies all of them.

8. In answer to Paragraph 8 of the Opposition: Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and on that basis denies all of them.

9. In answer to Paragraph 9 of the Opposition: Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and on that basis denies all of them.

10. In answer to Paragraph 10 of the Opposition: On the basis of the online records of the U.S. Patent and Trademark Office and the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies owns any registrations for the trademark “WISHCRAFT”; that Chasing Fireflies owns any common law rights relating to the brand “WISHCRAFT”; and that Chasing Fireflies continuously used the trademark “WISHCRAFT”. Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

11. In answer to Paragraph 11 of the Opposition: To the extent that the phrase “identical proposed mark” implies that Chasing Fireflies owns a registration for the trademark “WISHCRAFT”, Fantasma denies this allegation on the basis of the online records of the U.S. Patent and Trademark Office and Securities and Exchange Commission. Fantasma admits the remaining allegations.

12. In answer to Paragraph 12 of the Opposition: To the extent that the phrase “identical proposed mark” implies that Chasing Fireflies owns a registration for the trademark

“WISHCRAFT”, Fantasma denies this allegation on the basis of the online records of the U.S. Patent and Trademark Office and Securities and Exchange Commission. Fantasma admits the remaining allegations.

13. In answer to Paragraph 13 of the Opposition: Fantasma admits the allegations.

14. In answer to Paragraph 14 of the Opposition: Fantasma admits that its “WISHCRAFT” branded products are designed to appeal to children and that adults will purchase such products for children. Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

15. In answer to Paragraph 15 of the Opposition: Fantasma admits that it distributes products through the various means set forth in the Opposition, but denies any implication that these are the only or predominant means by which Fantasma distributes its products.

16. In answer to Paragraph 16 of the Opposition: Fantasma admits that it may seek wholesale distribution of its “WISHCRAFT” products to mass market retailers such as Target or Wal-Mart. Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

17. In answer to Paragraph 17 of the Opposition: Fantasma admits that it has applied to register the trademark “WISHCRAFT”. On the basis of the online records of the U.S. Patent and Trademark Office and the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies owns any registrations for the trademark “WISHCRAFT” and that Chasing Fireflies currently and continuously uses the trademark “WISHCRAFT”. Fantasma denies that its use of the trademark “WISHCRAFT” will cause confusion and/or mistake or deceive the consuming public when used on Fantasma’s goods and services. Fantasma is without sufficient

knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

18. In answer to Paragraph 18 of the Opposition: On the basis of the online records of the U.S. Patent and Trademark Office and the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies owns any registrations for the trademark “WISHCRAFT”. Fantasma denies that its use of the trademark “WISHCRAFT” will create any likelihood of confusion or actual confusion with the goods or services of any other person. Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

19. In answer to Paragraph 19 of the Opposition: Fantasma admits that it has applied to register the trademark “WISHCRAFT”. On the basis of the online records of the U.S. Patent and Trademark Office and the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies owns any registrations for the trademark “WISHCRAFT”. Fantasma denies that its use of the trademark “WISHCRAFT” will create any likelihood of confusion or actual confusion or “initial interest” confusion with the goods or services of any other person. Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

20. In answer to Paragraph 20 of the Opposition: Fantasma admits that it has applied to register the trademark “WISHCRAFT”. On the basis of the online records of the U.S. Patent and Trademark Office and the Securities and Exchange Commission, Fantasma denies that Chasing Fireflies owns any registrations for the trademark “WISHCRAFT”. Fantasma denies that its use of or application for the trademark “WISHCRAFT” is impermissible and that it is attempting to obtain the benefit of any other person’s use of the name “WISHCRAFT”.

Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and on that basis denies them.

21. In answer to Paragraph 21 of the Opposition: Fantasma denies all of the allegations.

22. In answer to Paragraph 22 of the Opposition: With respect to whether former consumers of Chasing Fireflies' products believe they are of the highest quality, Fantasma is without sufficient knowledge or information to form a belief as to the truth or falsity of this allegation and on that basis denies it. Fantasma denies all of the remaining allegations.

23. Fantasma denies each and every allegation of Chasing Fireflies not specifically admitted or otherwise responded to above. Fantasma further denies that its applications should be rejected for any reason; denies that Chasing Fireflies has standing to file the Opposition; denies that Chasing Fireflies has asserted any valid basis for opposing registration by Fantasma of the trademark "WISHCRAFT"; denies that the Opposition should be sustained; denies that Chasing Fireflies will be damaged by registration or use of "WISHCRAFT" by Fantasma; and denies that Chasing Fireflies is entitled to any relief whatsoever.

#### AFFIRMATIVE DEFENSES

24. As its first affirmative defense, Fantasma alleges that Chasing Fireflies lacks standing to oppose Fantasma's applications because Chasing Fireflies did not own any registration for or any rights in the trademark "WISHCRAFT" on the date the Opposition was filed.

25. As its second affirmative defense, Chasing Fireflies has not pleaded any law or facts that justify the rejection of Fantasma's applications; or Chasing Fireflies' Opposition; or a refusal to register Fantasma's trademarks.

26. As its third affirmative defense, on information and belief, neither Chasing Fireflies nor any company related to it was using the trademark “WISHCRAFT” on the date the Opposition was filed; currently uses the trademark “WISHCRAFT”; or has any plan or intention to use the trademark “WISHCRAFT” and any rights of Chasing Fireflies to such trademark have been abandoned and/or are limited in scope.

27. As its fourth affirmative defense, use by Fantasma of the trademark “WISHCRAFT” is not likely to cause confusion or mistake or to deceive.

PRAYER FOR RELIEF

WHEREFORE, having fully answered the Opposition of Chasing Fireflies, Fantasma respectfully prays as follows:

1. that the Opposition be dismissed with prejudice;
2. that judgment on the Opposition be entered in favor of Fantasma;
3. that Notices of Allowance be issued to Fantasma for the trademark “WISHCRAFT”; and
4. that Fantasma be granted such other and further relief as the Board deems just and proper.

Respectfully submitted,

Dated: October 12, 2012

/Scott Landsbaum/  
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Attorney for Applicant, Fantasma Toys, Inc.

## CERTIFICATE OF SERVICE

I hereby certify that this ANSWER is being deposited with the United States Postal Service, First Class Mail, postage prepaid, in an envelope addressed to Opposer's attorney on October 12, 2012, addressed as follows:

Robin Schachter  
Ryan, Swanson & Cleveland  
1201 Third Ave., Ste. 3400  
Seattle, WA 98101

/Scott Landsbaum/  
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