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

Proceeding	91205692
Party	Defendant VMR Products LLC dba V2 Cigs
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Attachments	VMR's Answer and Affirmative Defenses 08.29.2012.pdf (6 pages)(47256 bytes)

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

Grand River Enterprises Six Nations
Ltd.,

Opposer,

v.

VMR Products LLC d/b/a V2 CIGS,

Applicant.

Opposition No.: 91205692

Mark: VAPOR COUTURE

Serial No.: 85/450,714

VMR'S ANSWER AND AFFIRMATIVE DEFENSES

VMR Products LLC d/b/a V2 Cigs (“Applicant”), by and through its undersigned counsel, hereby responds to each of the numbered paragraphs in the Notice of Opposition filed by Grand River Enterprises Six Nations Ltd.’s (“Opposer”) on June 19, 2012, as follows:

1. Applicant admits the allegations set forth in paragraph 1 of the Notice of Opposition.
2. Applicant is without knowledge of the information set forth in paragraph 2 of the Notice of Opposition, and therefore denies the same.
3. Applicant is without knowledge of the information set forth in paragraph 3 of the Notice of Opposition, and therefore denies the same.
4. Applicant admits that United States Trademark Registration Number 3,729,797 is *prima facie* evidence of the validity of registration, of Opposer’s ownership thereof, and of Opposer’s exclusive right to use such registered mark on the goods or

services set forth in the registration. Applicant denies all other allegations set forth in paragraph 4 of the Notice of Opposition.

5. Applicant is without knowledge of the information set forth in paragraph 5 of the Notice of Opposition, and therefore denies the same.

6. Applicant is without knowledge of the information set forth in paragraph 6 of the Notice of Opposition, and therefore denies the same.

7. Applicant admits that Opposer attached to the Notice of Opposition, as Exhibit “A,” a document that appears to be a printout from the Canadian Trade-marks Database for Canadian Trademark Registration No. TMA776999. Applicant is without knowledge of the remaining information set forth in paragraph 7 of the Notice of Opposition, and therefore denies the same.

8. Applicant admits that Application Serial No.: 85/450,714 for the mark VAPOR COUTURE contains a disclaimer of the word “VAPOR,” but denies the remaining allegations of paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations of paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations of paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations of paragraph 11 of the Notice of Opposition.

12. Applicant is without knowledge of the information set forth in paragraph 12 of the Notice of Opposition, and therefore denies the same.

13. Applicant denies the allegations of paragraph 13 of the Notice of Opposition.

14. Applicant admits that it is using or intending on using the applied for mark in advertisements for electronic cigarettes, but denies all other allegations of paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations of paragraph 15 of the Notice of Opposition.

16. Applicant denies the allegations of paragraph 16 of the Notice of Opposition.

17. Applicant admits that the U.S. Trademark No. 3,729,797 has a filing date of December 22, 2008 and a registration date of December 22, 2009. Applicant also admits that Applicant's filing date is October 5, 2011. Applicant is without knowledge of the remaining allegations set forth in paragraph 17 of the Notice of Opposition, and therefore denies the same.

18. Applicant is without knowledge of the information set forth in paragraph 18 of the Notice of Opposition, and therefore denies the same.

19. Applicant admits that the terms COUTURE in the mark VAPOR COUTURE and the mark COUTURE have identical spellings. Applicant denies the remaining allegations of paragraph 19 of the Notice of Opposition.

20. Applicant admits that Application Serial No.: 85/450,714 for the mark VAPOR COUTURE contains a disclaimer of the word "VAPOR" apart from the mark as shown, but denies the remaining allegations of paragraph 20 of the Notice of Opposition.

21. Applicant denies the allegations of paragraph 21 of the Notice of Opposition.

22. Applicant denies the allegations of paragraph 22 of the Notice of Opposition.

23. Applicant denies the allegations of paragraph 23 of the Notice of Opposition.

24. Applicant denies the allegations of paragraph 24 of the Notice of Opposition.

25. Applicant denies the allegations of paragraph 25 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

Applicant hereby asserts the following affirmative defenses without prejudice to Applicant's right to modify or withdraw any defense and/or assert additional defenses subject to information obtained through the formal discovery process.

First Affirmative Defense

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

Second Affirmative Defense

There is no likelihood of confusion because Applicant's mark and Opposer's mark are not confusingly similar.

Third Affirmative Defense

There is no likelihood of confusion because Applicant's goods and Opposer's goods are sufficiently different.

CERTIFICATE OF ELECTRONIC FILING
AND CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **ANSWER AND AFFIRMATIVE DEFENSES** is being submitted electronically via the Electronic Filing System for Trademark Trial and Appeals on this 29 day of August, 2012.

I further hereby certify that a true and complete copy of the foregoing **ANSWER AND AFFIRMATIVE DEFENSES** has been served on Applicant by mailing said copy on this 29 day of August, 2012 by First Class Mail, postage prepaid and by electronic mail to:

Koch@bellnet.ca
Mark A. Koch
583 Main Street East
Hamilton, ON L8M1J4

On behalf of:
Grand River Enterprises Six Nations Ltd.

/glh/
Gregory L. Hillyer
Attorney for Opposer