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

Proceeding	91206266
Party	Defendant Stacey Berland
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Attachments	Berland.T.1.Answer.Grounds.of.Defense.pdf (6 pages)(16981 bytes)

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

Glen Raven, Inc.)	
Opposer,)	
)	
v.)	Opposition No. 91206266
)	
Stacey Berland)	
Applicant.)	

APPLICANT’S ANSWER AND GROUNDS OF DEFENSE

COMES NOW Applicant, Stacey Berland, in the matter of Opposition No. 91206266, and for her Answer and Grounds of Defense states as follows:

GENERAL RESPONSE

In response to Opposer’s opening statement, Applicant DENIES that Opposer will be damaged if the opposed application matures to registration.

SPECIFIC RESPONSES TO OPPOSITION PARAGRAPHS 1-15

1. Applicant is without sufficient information to reply to the allegations contained in Paragraph 1, and therefore DENIES the same and demands strict proof of the allegations.

2. Applicant is without sufficient information to reply to the allegations contained in Paragraph 2, and therefore DENIES the same and demands strict proof of the allegations.

3. Applicant is without sufficient information to reply to the allegations contained in Paragraph 3, and therefore DENIES the same and demands strict proof of the allegations.
4. Applicant is without sufficient information to reply to the allegations contained in Paragraph 4, and therefore DENIES the same and demands strict proof of the allegations.
5. Applicant admits that a website exists at www.sunbrella.com, but Applicant is without sufficient information to reply to the remaining allegations contained in Paragraph 5, and therefore DENIES the same and demands strict proof of the allegations.
6. Applicant is without sufficient information to reply to the allegations contained in Paragraph 6, and therefore DENIES the same and demands strict proof of the allegations.
7. Applicant is without sufficient information to reply to the allegations contained in Paragraph 7, and therefore DENIES the same and demands strict proof of the allegations.
8. Applicant is without sufficient information to reply to the allegations contained in Paragraph 8, and therefore DENIES the same and demands strict proof of the allegations.

9. Applicant admits that the registrations pled in Paragraph 9 currently exist on the principle register. Applicant DENIES, however, that Opposer is owner of all right, title and interest in the SUNBRELLA Marks. With respect to the photocopies attached as Exhibit A to the Notice of Opposition, Applicant ADMITS that they are copies of documents available online through the U.S. Patent and Trademark Office trademark document retrieval service.
10. Applicant DENIES the allegations contained in Paragraph 10.
11. Applicant is without sufficient information to reply to the allegations contained in Paragraph 11, and therefore DENIES the same and demands strict proof of the allegations.
12. NOTICE OF OPPOSITION HAS NO PARAGRAPH NUMBERED 12.
13. The allegations of Paragraph 13 are ADMITTED.
14. The allegations of Paragraph 14 are DENIED.
15. The allegations of Paragraph 15 are DENIED.

DEFENSES.

1. Opposer has abandoned the Marks asserted by Opposer as closely resembling Applicant's Mark.
2. Opposer has no standing to bring this Opposition as Opposer is not the owner of the Marks it has alleged to be confusingly similar to Applicant's Mark.

3. Applicant denies that there is any likelihood of confusion with respect to the goods and services as set forth in the application at issue in that Applicant does not intend to manufacture and sell fabric, and Opposer's goods are limited to fabric and fabric products (e.g., seat cushions and the like).
4. Applicant denies that there is any likelihood of confusion with respect to Applicant's intended actual goods in that Applicant does not intend to manufacture and sell fabric, and Opposer's goods are limited to fabric and fabric products (e.g., seat cushions and the like).
5. Opposer's action is barred in that Opposer has abandoned one or more of the Marks which it relies upon for its claim of a likelihood of confusion.
6. Opposer's action is barred in that Opposer did not use in commerce one or more of the Marks which it relies upon for its claim of a likelihood of confusion.
7. Opposer's action is barred in that Opposer has failed to join a necessary party. In particular, Opposer has not brought the owner by assignment of the Marks upon which it relies for its claim of a likelihood of confusion.

WHEREFORE, Applicant respectfully submits that Opposer is not entitled to the relief it seeks in its Notice of Opposition and the Opposition should therefore be DISMISSED.

STACEY BERLAND, APPLICANT

_____/s/_____
Of Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th of September, 2012, the foregoing Applicant's Answer and Grounds of Defense was served via First Class Mail and email to the following, and electronically filed with the TTAB, which will also send notification of such filing (NEF) to the following:

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