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

Proceeding	91208873
Party	Defendant Sunflower Meadows Herb Farm LLC
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Date	08/14/2013
Attachments	Answer - Sunflower Meadows.pdf(161353 bytes)

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

In re Serial No. 85/447,463
Filed: October 14, 2011
Published: September 18, 2012

HERB PHARM, LLC.,	:	
Opposer,	:	
v.	:	Opposition No. 91/208,873
SUNFLOWER MEADOWS HERB FARM LLC.,	:	
	:	
Applicant.		

ANSWER

Applicant Sunflower Meadows Herb Farm LLC. ("Applicant"), a Delaware Limited Liability Company, having an address at P.O. Box 351, Kanosh, Utah 84637, by and through it counsel, without waiving any right and saving to itself all defenses in law and equity, in answer to the Notice of Opposition states as follows.

In response to the allegations in the preamble of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegation as to the address of Opposer Herb Pharm, LLC ("Herb Pharm") and its LLC status. Applicant otherwise denies the allegations set forth in the preamble.

As to the numbered paragraphs in the Notice of Opposition, Applicant states as follows.

1. In answer to paragraph 1 of the Notice of Opposition, Applicant is without information sufficient to admit or deny the factual allegations therein, and therefore denies same. To the extent paragraph 1 sets forth conclusions of law, no response is required.

2. In answer to paragraph 2 of the Notice of Opposition, Applicant is without information sufficient to admit or deny the allegations therein, and therefore denies same.

3. In answer to paragraph 3 of the Notice of Opposition, Applicant is without information sufficient to admit or deny the allegations therein, and therefore denies same.

4. Applicant denies the allegations of paragraph 4 of the Notice of Opposition.

5. Applicant denies the allegations of paragraph 5 of the Notice of Opposition.

6. Applicant denies the allegations of paragraph 6 of the Notice of Opposition.

7. Applicant admits only that its Application Ser. No. 85/447,463 (the "Application") includes "Herbal supplements and medicinal herbal preparations" in IC 5, "Herbal tea and herbal food beverages" in IC 30, and "Herbal juices" in IC 32. Applicant otherwise denies the allegations of paragraph 7 of the Notice of Opposition.

8. In answer to paragraph 8 of the Notice of Opposition, Applicant is without information sufficient to admit or deny the allegations therein, and therefore denies same.

9. In answer to paragraph 9 of the Notice of Opposition, Applicant admits that registration would afford it *prima facie* rights but otherwise denies the allegations in paragraph 9.

AFFIRMATIVE DEFENSES

Applicant states the following defenses and affirmative defenses to the Notice of Opposition, without acknowledging that it bears the burden of proof as to any.

1. The Notice of Opposition fails to state a claim on which relief can be granted.

2. The Notice of Opposition is too vague and indefinite as to its definition of "the Herb Pharm Mark" to sufficiently set forth the legal grounds and factual basis of the Notice of Opposition or to permit Applicant meaningfully to answer and identify its defenses.

3. To the extent Opposer relies on unregistered marks, they are not identified with requisite specificity and are not indicators of source.

4. Some or all of the marks upon which Opposer relies are merely descriptive and have not acquired secondary meaning.

5. Some or all of the marks upon which Opposer relies are generic and unenforceable.

6. Opposer's disclaimer of the term "herb" amounts to an admission of the lack of any likelihood of confusion.

7. Opposer lacks standing to maintain the Notice of Opposition.

For the foregoing reasons, Opposer prays that the Notice of Opposition be dismissed with prejudice, and that it be accorded such further relief as is provided for by law and the rules of practice in *inter partes* proceedings.

Respectfully submitted,

SUNFLOWER MEADOWS HERB FARM

By: _____

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Counsel for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Applicant's Answer was served on Opposer's counsel at the following address of record by First Class Mail, postage prepaid, this 14th day of August 2013:

Tyler J. Volm
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