

ESTTA Tracking number: **ESTTA541581**

Filing date: **06/04/2013**

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

Proceeding	91208973
Party	Defendant KC Running Company
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Submission	Answer
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Date	06/04/2013
Attachments	Answer_Amended_Notice_Opposition.pdf(27978 bytes )

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

PETER STARYKOWICZ,	)	
	)	
Opposer,	)	Opposition No. 91208973
	)	
v.	)	Mark: GLOW RUN
	)	
KC RUNNING COMPANY,	)	
	)	
Applicant.	)	

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**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES  
TO OPPOSER’S AMENDED NOTICE OF OPPOSITION**

Applicant KC Running Company (“KCRC” or “Applicant”) for its Answer and affirmative defenses against Opposer Peter Starykowicz’s (“Mr. Starykowicz” or “Opposer”), states as follows:

1. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in paragraph 1 of the Amended Notice of Opposition, which are therefore denied.
2. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in paragraph 2 of the Amended Notice of Opposition, which are therefore denied.
3. Denied.
4. Admitted that Applicant filed U.S. application Serial No. 85/673477 for the trademark GLOW RUN covering “charitable fundraising services by means of conducting walking and running events incorporating post-race parties featuring music” in class 36, and “entertainment services, namely, arranging and conducting walking and running events

incorporating post-race parties featuring music” in class 41. The remaining allegations set forth in paragraph 4 are denied.

5. Denied.

6. Denied.

7. Denied.

8. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in paragraph 8 of the Amended Notice of Opposition, which are therefore denied.

9. Denied.

10. Denied.

11. Applicant denies the allegations of paragraph 11 of the Amended Notice of Opposition to the extent that they implicitly call for a legal conclusion regarding whether Opposer’s authorization is required to use or register the mark.

12. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in paragraph 12 of the Amended Notice of Opposition, which are therefore denied.

13. Denied.

FURTHERMORE, Applicant sets for the following in support of its position:

**APPLICANT’S AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

1. Opposer fails to state a claim upon which relief can be granted.

SECOND DEFENSE

2. There is no likelihood of confusion between Opposer's mark and Applicant's mark.

THIRD DEFENSE

3. Applicant's mark and Opposer's mark are different in appearance.

FOURTH DEFENSE

4. Applicant's mark and Opposer's mark are different in spelling.

FIFTH DEFENSE

5. Applicant's mark and Opposer's mark create different commercial impressions.

SIXTH DEFENSE

6. Opposer is not a senior user of Applicant's mark.

SEVENTH DEFENSE

7. Applicant's mark was adopted and used prior to Opposer's mark.

EIGHTH DEFENSE

8. By reason of Applicant's marketing, advertising and promotional efforts, Applicant's mark has become uniquely associated with Applicant.

**ADDITIONAL DEFENSES**

Applicant reserves any and all affirmative defenses and all other defenses of any kind not expressly stated herein that may be disclosed through research, investigation or discovery.

**PRAYER FOR RELIEF**

WHEREFORE, Applicant prays that Mr. Starykowicz's Opposition be in all respects dismissed with prejudice and that Applicant's mark which is the subject of application serial number 85/673477 be allowed registration.

Respectfully submitted,

By: /Ginnie C. Derusseau/

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Attorneys for Applicant  
KC Running Company

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer and Affirmative Defenses to Opposer's Amended Notice of Opposition has been served upon Keesonga Gore of Minott Gore, P.A., 201 S. Biscayne Blvd., Suite 2800, Miami, Florida 33131, by deposit in the United States Mail at Overland Park, Kansas, in a sealed envelope with first class postage thereon fully prepaid, this 4th day of June 2013.

/Ginnie C. Derusseau/