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

Proceeding	91211998
Party	Defendant Krueger International, Inc.
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Date	11/15/2013
Attachments	ALT3 Answer to Amended Notice of Opposition 91211998.pdf(124346 bytes)

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

In the Matter of Application Serial No. 85/774479
Published: April 16, 2013
Filed: November 8, 2012
For the Mark: ALT3

ALT3 MEDIA CORPORATION)	
)	
Opposer,)	
)	
v.)	ALT3
)	
KRUEGER INTERNATIONAL, INC.,)	Opposition No. 91211998
)	
Applicant.)	

ANSWER TO AMENDED NOTICE OF OPPOSITION

Applicant, Krueger International, Inc. (hereinafter "Applicant"), hereby responds to the Amended Notice of Opposition filed by Alt3 Media Corporation (hereinafter "Opposer Alt3 Media") as follows:

1. Answering Paragraph 1, Applicant does not have sufficient information to either admit or deny the allegations contained in Paragraph 1, and therefore denies the allegations.
2. Answering Paragraph 2, Applicant admits it is a Wisconsin corporation with its principal place of business in Green Bay, Wisconsin; Applicant denies the remaining allegations contained therein.
3. Answering Paragraph 3, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.
4. Answering Paragraph 4, Applicant denies each and every allegation contained therein.

5. Answering Paragraph 5, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

6. Answering Paragraph 6, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

7. Answering Paragraph 7, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

8. Answering Paragraph 8, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

9. Answering Paragraph 9, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

10. Answering Paragraph 10, Applicant admits it sells products, namely furniture and movable wall systems, for business, governmental, and institutional markets. Applicant does not have sufficient knowledge or information to form a belief as to the remaining allegations contained therein and accordingly denies the allegations.

11. Answering Paragraph 11, Applicant admits that on November 8, 2012, it filed an intent-to-use application for trademark registration of ALT3, in standard characters, for Furniture in International Class 20.

12. Answering Paragraph 12, Applicant notes no additional answer is required, all prior answers being restated as if fully set forth herein.

13. Answering Paragraph 13, Applicant admits the Application is for registration of ALT3 as a standard character mark, but does not have sufficient knowledge or information to form a belief as to the remaining allegations contained therein and accordingly denies the allegations.

14. Answering Paragraph 14, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

15. Answering Paragraph 15, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

16. Answering Paragraph 16, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

17. Answering Paragraph 17, Applicant denies each and every allegation contained therein.

AFFIRMATIVE DEFENSES

In further answer to the Amended Notice of Opposition, Applicant, Krueger International, Inc. hereby asserts the following Affirmative Defenses, reserving the right to modify and expand these Affirmative Defenses up to and throughout the time of adjudication.

1. Applicant manufactures and sells furniture and movable wall systems for the business and institutional markets, and maintains an extensive network of distributors and sales

representatives through which it sells its products. In marked contrast to Applicant's physical goods, namely "furniture", Opposer avers that "its principal business" is to "act as a single source digital agency" which provides services to businesses consisting of assistance "with their overall web strategy and business." (Amended Notice of Opposition ¶ 1)

2. Applicant's use of the ALT3 trademark is not likely to cause confusion or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer Alt3 Media, or as to the origin, sponsorship, or approval of Applicant's goods by Opposer Alt3 Media.

3. Any common law trademark rights Opposer Alt3 Media may have in the ALT3 mark are limited to the goods and services for which the designation is used, to-wit: a "digital agency". Such use would not create a likelihood of confusion with Applicant's goods, namely "furniture".

4. Applicant's use of the ALT3 trademark is not likely to cause confusion because, upon information and belief, the respective goods and services are completely unrelated, the respective channels of trade are completely unrelated, and the parties do not provide their respective goods and services to the same consumers or class of consumers.

5. Applicant's use of the ALT3 trademark will not be thought of by the public to derive from the same source as the goods of Opposer Alt3 Media.

6. Applicant's use of the ALT3 trademark will not be thought of by the public to be a use by Opposer Alt3 Media or with Opposer Alt3 Media's authorization or approval.

7. Registration of Applicant's ALT3 trademark on the Principal Register is not inconsistent with Opposer Alt3 Media's common law rights, if any, in the ALT3 mark, and would not be damaging to Opposer Alt3 Media.

8. Opposer Alt3 Media's common law mark is not famous within the provisions of the Federal Trademark Dilution Act of 1995, as amended, nor is it famous within the context of a likelihood of confusion analysis under 15 USC Section 1052(d).

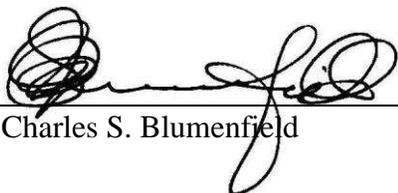
9. Applicant reserves the right to offer additional affirmative defenses as may be proper in light of evidence developed during the pendency of this matter.

WHEREFORE, Applicant prays the Opposition against U.S. Trademark Serial No.85/774479 be dismissed in its entirety with prejudice, and that Applicant's ALT3 trademark be allowed to proceed to registration.

Applicant, Krueger International, Inc. hereby appoints Attorneys Charles S. Blumenfield and Cobby J. Shereff of Blumenfield and Shereff, LLP to transact all business in the United States Patent and Trademark Office relating to this matter with full power of substitution.

Dated this 15th day of November, 2013.

BLUMENFIELD & SHEREFF, LLP
Attorneys for Applicant, Krueger International, Inc.

By  _____
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CERTIFICATE OF SERVICE

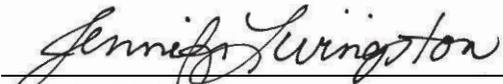
This is to certify I have this day served a true and correct copy of the foregoing ANSWER TO AMENDED NOTICE OF OPPOSITION (Opposition Number 91211998) on counsel for Opposer by electronic mail as follows:

steiger@MGFL-law.com

A courtesy copy was also sent to counsel by placing a true and correct copy of same in the First Class U.S. Mail as follows:

Attorney Eric J. Steiger
Miller Goler Faeges Lapine LLP
1301 E. 9th Street Suite 2700
Cleveland, OH 44114-1835

Dated this 15th day of November, 2013.



Jennifer Livingston