

ESTTA Tracking number: **ESTTA565052**

Filing date: **10/15/2013**

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

Proceeding	91212361
Party	Defendant Wells, Sir Killian, Mathew
Correspondence Address	WELLS, SIR KILLIAN, MATHEW 15401 KESWICK ST VAN NUYS, CA 91406-2009  pr@infenorecords.com
Submission	Answer
Filer's Name	Sir Killian Mathew Wells
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Signature	/Sir Killian Mathew Wells/
Date	10/15/2013
Attachments	Answer to Opposition 91212361.pdf(131883 bytes )

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

Cosmetic Warriors Limited,	)	
	)	
Opposer,	)	Opposition No. 91212361
	)	
v.	)	
	)	Serial No. 85/887,393
Sir Killian Mathew Wells,	)	Mark: <b>LUSH</b>
	)	
Applicant,	)	
_____	)	

Commissioner for Trademarks  
Trademark Trial and Appeal Board  
PO Box 1451  
Alexandria, VA 22313-1451

**ANSWER TO NOTICE OF OPPOSITION**

Sir Killian Mathew Wells (“Applicant”), an individual, having a principal place of business at 15401 Keswick St, Van Nuys, CA 91406, responds to the Notice Of Opposition as follows:

1. Admitted.
2. Admitted.
3. Applicant admits that Cosmetic Warriors Limited is shown as the owner of Reg. Nos. 2,853,483 , 3,001,303 , 2,282,428 , 3,102,767 , 3,008,685 , 3,987,808 , and 4,118,438 per the records of the U.S. patent and Trademark Office.
4. Applicant admits the Opposer’s marks Reg. Nos. 2,853,483 and 2,282,428 are shown in the records of the U.S. Patent and Trademark Office to have §15 declarations on file. Applicant is without knowledge or information sufficient

to form a belief as to the remainder of Paragraph 4 and therefore denies the same.

5. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 5 and therefore denies the same.
6. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 6 and therefore denies the same. Applicant is unaware of Opposer selling anything for oral consumption.
7. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 7 and therefore denies the same.
8. Denied.
9. Applicant admits that the appearance and sound of the LUSH mark are similar, the remaining allegations of this paragraph are denied.
10. Applicant admits that the appearance and sound of the LUSH mark are similar, the remaining allegations of this paragraph are denied.
11. Denied.
12. Denied.
13. Denied.
14. Denied.
15. Admitted as to effect of registration. Otherwise denied.
16. Denied.

**AFFIRMATIVE DEFENSES**

**First Affirmative Defense**

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

**Second Affirmative Defense**

There is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's Mark and Opposer's Mark are not confusingly similar.

**Third Affirmative Defense**

Opposer has unclean hands by virtue of, *inter alia*, Opposer's attempts to use the forum to misstate the breadth of its trademark rights because it knows it does not provide foods or hangover remedies.

**Fourth Affirmative Defense**

Opposer has misused its trademark by attempting to extend its trademark rights to goods that it knows it does not provide, such as foods and hangover remedies.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be rejected and that Applicant's mark be allowed to proceed to registration.

Dated this 15<sup>th</sup> day of October, 2013

Respectfully submitted,



Sir Killian Mathew Wells  
15401 Keswick St.  
Van Nuys, CA 91406  
Telephone: (323) 301-3330  
Facsimile: (212) 729-1770  
APPLICANT

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing **ANSWER TO NOTICE OF OPPOSITION** with Affirmative Defenses was served upon Opposer's by depositing a copy of same in the United States Mail, first class postage prepaid, on this 15<sup>th</sup> day of October, 2013, addressed to:

John A. Clifford  
Merchant & Gould P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-0910  
Attorneys for Opposer's



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Sir Killian Mathew Wells  
APPLICANT