TTAB

Docket No. 30GL-192270

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

In re Matter of Application Serial No. 85/587,640 for the trademark ***HINT*** *in Class 18* Hint, Incorporated, Opposer, v. Sunrise Apparel Group, LLC, Applicant.	Opposition No. 91-212519 **ANSWER TO NOTICE OF OPPOSITION**

10-31-2013

U.S. Patent & TMO/TM Mail Rcpt Dt. #32

Applicant Sunrise Apparel Group, LLC, ("Applicant"), by and through its counsel, responds to the Notice of Opposition ("Opposition") filed by Opposer Hint, Incorporated ("Opposer") as follows:

In response to the preliminary paragraph of the Opposition, Applicant admits that it filed Application Serial No. 85/587,640 for the trademark HINT in Class 18, but denies that Opposer will be damaged by the application or its registration. Applicant lacks sufficient information or belief to admit or deny any remaining allegations contained in the preliminary paragraph of the Opposition, and therefore denies each and every such allegation.

1. Applicant admits that the allegations contained in paragraph 1 of the Opposition.

2. In response to paragraph 2 of the Opposition, Applicant admits only that it filed Application Serial No. 85/587,640 for the goods stated therein. Applicant denies each and every remaining allegation therein.

3. Applicant admits that the allegations contained in paragraph 3 of the Opposition.

4. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 4 of the Opposition, and therefore denies each and every such allegation.

5. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 5 of the Opposition, and therefore denies each and every such allegation.

6. Applicant denies the allegations contained in paragraph 6 of the Opposition.

7. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 7 of the Opposition, and therefore denies each and every such allegation.

8. Applicant admits that it filed its Application, Serial No. 85/587,640 on April 3, 2012 based on an intent to use the mark, but denies the remaining allegations contained in paragraph 8 of the Opposition.

9. Applicant denies the allegations contained in paragraph 9 of the Opposition.

10. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 10 of the Opposition, and therefore denies each and every such allegation.

11. Applicant denies the allegations contained in paragraph 11 of the Opposition.

12. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 12 of the Opposition, and therefore denies each and every such allegation.

13. Applicant denies the allegations contained in paragraph 13 of the Opposition.

14. Applicant denies the allegations contained in paragraph 14 of the Opposition.

15. Applicant denies the allegations contained in paragraph 15 of the Opposition.

16. Applicant denies the allegations contained in paragraph 16 of the Opposition.

17. Applicant states that the allegations in the last unnumbered paragraph of the Opposition state a legal conclusion to which no response is required and therefore denies each and every such allegation.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Failure To State A Claim

18. Opposer has failed to allege grounds sufficient to sustain the Opposition.

Second Affirmative Defense – Estoppel

19. The Opposition is barred by estoppel.

Third Affirmative Defense – Acquiescence

20. The Opposition is barred by Opposer's acquiescence.

Fourth Affirmative Defense – Waiver

21. The Opposition is barred by the doctrine of waiver.

Fifth Affirmative Defense – Laches

22. The Opposition is barred by the doctrine of laches.

Sixth Affirmative Defense – Lack of Rights

23. Opposer does not have trademark rights in HINT.

Seventh Affirmative Defense – Third Party Use

24. Opposer's rights, if any, to the trademark HINT are weakened by the third party use, including but not limited to:

Mark	Register	Class	Reg. No.
MAYALAND COFFEE AZUL SWEET, BALANCED WITH HINTS OF TROPICAL FRUIT MEDIUM ROAST WHOLE BEAN MAYALAND COFFEE	Federal	30	4,359,879
HINT OF LACE	Federal	25	4,007,661
HINT OF SALT	Federal	30	3,880,392
GET THE HINT	Federal	18, 25	4,183,495
BAILEYS WITH A HINT OF MINT CHOCOLATE IRISH CREAM R A BAILEY	Federal	33	3,429,423
BAILEYS WITH A HINT OF CARAMEL IRISH CREAM R A BAILEY	Federal	33	3,429,424
HINT OF SKIN	Federal	25	3,134,345
HINT MINT	Federal	30	2,470,558
HINT OF ORANGE	Federal	30	2,083,543
HINT OF MINT	Federal	30	1,516,590
PORTLAND BREWING 1339 OREGON HONEY BEER BREWED WITH REAL HONEY BLONDISH GOLD AND LIGHT BODIED, OHB OFFERS A HINT OF HONEY FLAVOR WITH A CRISP, DRY FINISH	State (Oregon)	32	100,261

Applicant will identify other third party HINT marks for goods in Class 18 or for goods and services related thereto in discovery.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed with prejudice, and that the prayer for relief contained therein be denied.

Respectfully submitted,

Dated: October 28, 2013

Jill M. Pietrini
Paul Bost
Ben Aigboboh
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
(310) 228-3700

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, Attn: Trademark Trial and Appeals Board P.O. Box 1451, Alexandria, VA 22313-1451, on this 28th day of October, 2013.

LaTrina A. Martin

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** is being deposited as first class mail, postage prepaid, in an envelope addressed to:

Lori S. Kozak
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 Wilshire Blvd., 7th Floor
Los Angeles, CA 90025-1040

on this 28th day of October, 2013.

LaTrina Martin

SMRH:411634476.2