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

Proceeding	91212653
Party	Defendant Majestique Corporation
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Submission	Other Motions/Papers
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Date	11/14/2013
Attachments	Opposition to motion to Strike Affirmative.pdf(273032 bytes)

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

NAUTICA APPAREL, INC.

OPP. NO. 91212653
SERIAL NO. 85883577

Opposer

Vs.

MAJESTIQUE CORPORATION

Applicant

OPPOSITION TO MOTION TO STRIKE AFFIRMATIVE DEFENSES NOS. 1, 2, 3, 6, 8 & 10

TO THIS HONORABLE TRADEMARK TRIAL AND APPEAL BOARD:

COMES NOW, the Applicant Majestique Corporation, by its undersigned attorney and very respectfully states, alleges and prays:

1. On November 8, 2013, Opposer, Nautica Apparel, Inc. filed a Motion to Strike Affirmative Defenses Nos. 1, 2, 3, 6, 8 & 10. This Motion should be denied since Opposer fails to provide grounds for said drastic measure.

2. Pursuant to law, Motions to Strike are disfavored and generally will be denied unless the allegations attacked have absolutely no possible relation to the controversy. Skilnick v. Hallett, 350 F.2d 861 (7th Cir. 1965). If the alleged matter is merely of doubtful relevancy or doubtful legal value, the motion will be denied.

3. The affirmative defenses in Applicant Answer to the Opposition are directly relevant to the issues at bar. It is well established that in an Affirmative Defense a party can incorporate by reference the denials and averments contained in the Complaint. Also, the failing to include an indispensable party is adequate. Nautica Apparel, Inc. is a part of VF Corporation and it is

paramount that both entities appear in the case, since one of the tests to determine by this Honorable Board is the channels of distributions and sales of the products.

4. Applicant's affirmative defenses also show that there is no likelihood of confusion between both names and marks. All products show the Nautica brand is sold in conjunction with the mark and they cannot be separated. The affirmative defense should stand. No ordinary man will confuse both brands and marks since they are completely different.

WHEREFORE it is respectfully requested from this Honorable Board to deny the Motion to Strike filed by Opposer, Nautica Apparel, Inc.

Dated: November 14, 2013.

Respectfully submitted for
Applicant Majestique Corporation

BY: /gino negretti/
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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Opposition to Motion to Strike Affirmative Defenses Nos. 1, 2, 3, 6, 8 & 10, by a First Class Mail, postage prepaid, by depositing the same with the U.S. Postal Service on this November 14, 2013 to Opposer's Attorney at the following address:

Neil B. Friedman, Esq.
Stephen L. Baker, Esq.
BAKER AND RANNELLS, P.A.
575 Route 28, Suite 102
Raritan, New Jersey 08869

/gino negretti/
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