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

Proceeding	91212665
Party	Defendant Rhapsody International Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

RYAN LESTER,

Opposer,

v.

RHAPSODY INTERNATIONAL INC.,

Applicant.

Opposition No. 91212665

**Applicant Rhapsody International Inc.'s
Answer to Notice of Opposition**

Applicant Rhapsody International Inc. (“Applicant” or “Rhapsody”) responds as follows to the Notice of Opposition of Opposer Ryan Lester (“Opposer” or “Lester”).

Rhapsody denies that Lester will be damaged by the registration of Rhapsody’s applied-for trademark. Rhapsody lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the preliminary paragraph of the Notice of Opposition, and on that basis denies the allegations.

1. Rhapsody admits that Lester purports to base his Notice of Opposition on the stated grounds. Rhapsody denies the remaining allegations of this paragraph.
2. Admitted.
3. Rhapsody admits that Application Serial No. 85/804,778 was filed on or about December 17, 2012, on an intent to use basis.
4. Rhapsody admits that the goods and services identified in Application Serial No. 85/804,778 are as set forth in this paragraph.

5. Admitted.

6. Rhapsody lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies the allegations.

7. Rhapsody lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies the allegations.

8. Lester appears to allege that a likelihood of reverse confusion will be created by consumers believing that Lester is using Rhapsody's NAPSTER mark. Rhapsody denies this allegation on grounds that Rhapsody owns the NAPSTER mark for the goods and services identified in Application Serial No. 85/804,778 and related goods and services, based on prior trademark registrations and common law, and that Rhapsody's dates of adoption and first use of its NAPSTER mark precede Lester's alleged date of first use of NAPSTER.FM.

9. Denied.

AFFIRMATIVE DEFENSES

1. The Notice of Opposition fails to state a claim upon which relief can be granted.

2. Lester's claims are barred by the doctrine of unclean hands.

WHEREFORE, Rhapsody asks that Opposition No. 91212665 be dismissed, that United States Trademark Application Serial No. 85/804,778 be passed to allowance, and that Rhapsody be granted such further relief as this Board deems just and proper.

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: November 4, 2013

By: /s/ Gia L. Cincone
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CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2013, the foregoing **Applicant Rhapsody International Inc.'s Answer to Notice of Opposition** is being deposited with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

Carl I. Brundidge
Brundidge and Stanger PC
2318 Mill Road, Suite 1020
Alexandria, VA 22314

/s/ Linda Tan
Linda Tan