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

Proceeding	91212722
Party	Defendant Rising Lotus Childrens Village
Correspondence Address	RISING LOTUS CHILDRENS VILLAGE RISING LOTUS CHILDRENS VILLAGE 12644 LAKE MARY JANE RD ORLANDO, FL 32832-6407  tracy@risinglotuschildreenvillage.org
Submission	Answer
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Date	11/08/2013
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____	)	
KARMA ATHLETICS, LTD.	)	
	)	
Plaintiff	)	
	)	
v.	)	Opposition No. 91212722
	)	
RISING LOTUS CHILDRENS VILLAGE	)	
	)	
Defendant	)	
_____	)	

**ANSWER**

Rising Lotus Children’s Village (“Defendant”), through undersigned counsel, hereby responds to Karma Athletics, Ltd. (“Plaintiff”) as follows:

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.
2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.
3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.
4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.

5. Defendant admits that the mark is registered, but is without knowledge or information sufficient to form a belief as to the truth of the other allegations. To the extent a response is required, the statements of that paragraph are denied.

6. Defendant admits that the mark is registered, but is without knowledge or information sufficient to form a belief as to the truth of the other allegations. To the extent a response is required, the statements of that paragraph are denied.

7. Defendant admits that the mark is registered, but is without knowledge or information sufficient to form a belief as to the truth of the other allegations. To the extent a response is required, the statements of that paragraph are denied.

8. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.

9. Admitted.

10. Denied.

11. The allegations are conclusions of law to which no response is required. To the extent a response is required, the statements of that paragraph are denied.

12. The allegations of this paragraph are conclusions of law to which no response is required. To the extent a response is required, the statements of that paragraph are denied.

13. Admitted.

14. Denied.

15. Denied.

16. Admitted.

17. The allegations of this paragraph are conclusions of law to which no response is required. To the extent a response is required, the statements of that paragraph are denied.

18. The allegations of this paragraph are conclusions of law to which no response is required. To the extent a response is required, the statements of that paragraph are denied.

19. The allegations of this paragraph are conclusions of law to which no response is required. To the extent a response is required, the statements of that paragraph are denied.

20. Denied.

21. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.

22. The allegations of this paragraph are conclusions of law to which no response is required. To the extent a response is required, the statements of that paragraph are denied.

23. Denied.

24. Denied.

### **AFFIRMATIVE DEFENSES**

Defendant further defends by asserting the following affirmative defenses:

#### **No Likelihood of Confusion**

25. The proposed '871 mark is not likely to be confusing to consumers when compared to the Plaintiff's marks.

26. Each of Plaintiff's marks are Design marks, and consist of the word "KARMA" followed by a single "dot" or circle. Plaintiff's proposed mark for "GOT KARMA?" uses a question mark, and explicitly contains the word "GOT" before the word "KARMA." The commercial impressions of the marks are not similar.

27. The goods and services of the parties are unrelated and marketed through different channels of trade. Defendant is a nonprofit children's home providing Nepalese orphans with the hope, care and education they need to transcend poverty. See About Us, available at <http://risinglotuschildredivillage.wordpress.com/about-us/> (last visited November 8, 2013). On the other hand, Plaintiff is a for-profit entity, selling "active performance wear that easily crosses over into head-turning lifestyle apparel." See About, available at <http://www.karmawear.com/pages/about-us> (last visited November 8, 2013). The markets are unlikely to overlap.

28. The goods and services of the parties are sold to different classes of consumers. Plaintiff targets active women, proclaiming that "each piece is expertly designed, constructed and contoured to highlight the feminine shape and enhance what makes women beautiful." Id. On the other hand, Defendant sells comfortable clothing to donors of both genders that are primarily interested in promoting a social cause.

29. Plaintiff's marks are weak, covering only a very specific design element that happens to contain the word "KARMA" in the design. The Plaintiff's marks are only entitled to the narrow protection provided to the respective designs, and cannot be considered strong enough to preclude applications for marks that are, on their face, different from Plaintiff's existing marks.

30. On information and belief, there is no evidence of actual confusion in the marketplace. Plaintiff has yet to provide any particular instance of confusion, and Defendant is not aware of any actual confusion between the marks at issue.

31. Consumers in the marketplaces at issue are sophisticated. Plaintiff targets consumers willing to pay a premium price for higher-end athletic wear. These consumers seek highly specialized clothing specifically designed for athletic performance. Defendant, to the contrary,

targets men, women, and children of all shapes and sizes. These consumers are likewise sophisticated because they have a high degree of social awareness. Accordingly, these consumers ensure that any purchase of an article of clothing will specifically benefit their intended social charity or convey a social message, compared to merely serving as a piece of athletic clothing.

**RELIEF REQUESTED**

For all the foregoing, Defendant respectfully requests that this proceeding be dismissed, with prejudice.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on November 8, 2013 a copy of the foregoing was sent via first class mail, postage prepaid, to Opposer's counsel:

Joseph W. Berenato, III  
Berenato & White LLC  
6550 Rock Spring Drive, Suite 240  
Bethesda, MD 20817



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Eric J. Menhart