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

Proceeding	91214285
Party	Defendant Buz Box, LLC
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BUZZBOX BEVERAGES, INC.,)	
)	In the Matter of Trademark Application
Opposer,)	Serial No. 85752428
)	
v.)	For the Mark BUZ BOX
)	
BUZ BOX, LLC,)	
)	Opposition No. 91214285
Applicant.)	

ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION

Buz Box, LLC (“Applicant”), by and through the undersigned counsel, hereby answers the numbered paragraphs of the Notice of Opposition filed by BuzzBox Beverages, Inc. (“Opposer”) in this matter as indicated below. Unless specifically admitted, Applicant denies each of the allegations in the Notice of Opposition.

1. Applicant admits the allegations contained in Paragraph 1 of the Notice of Opposition, including specifically that Applicant’s application, identified as Application Serial No. 85752428, was filed on October 12, 2012.
2. Applicant admits the allegations contained in Paragraph 2 of the Notice of Opposition.
3. Applicant admits that Application Serial Nos. 85851976 and 86032818 were filed on February 16, 2013 and August 16, 2013 respectively and that Exhibits B and C to the Notice of Opposition purport to be printouts of information from the electronic database records to the USPTO relating those applications. Applicant is without knowledge or information sufficient to form a belief as to the remaining allegations contained in Paragraph 3 of the Notice of Opposition and therefore denies them.

4. Applicant admits that Application Serial Nos. 85851976 and 86032818 are based on Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b). Applicant is without knowledge or information sufficient to form a belief as to the remaining allegations contained in Paragraph 4 of the Notice of Opposition and therefore denies them.

5. Applicant admits the allegations contained in Paragraph 5 of the Notice of Opposition.

6. Applicant denies the allegations contained in Paragraph 6 of the Notice of Opposition and demands strict proof thereof. Applicant further asserts that Application Serial Nos. 85851976 and 86032818 were filed pursuant to Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b) on February 16, 2013 and August 16, 2013 respectively, with no allegation of dates of use or dates of use in commerce prior to those dates.

7. Paragraph 7 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 7 of the Notice of Opposition.

8. With respect to Paragraph 8 of the Notice of Opposition, Applicant admits the mark included in Applicant's application (the "Mark") is identical or virtually identical to the marks included in Application Serial Nos. 85851976 and 86032818 as to appearance, sound, connotation and commercial impression. Applicant is without knowledge or information sufficient to form a belief as to the remaining allegations contained in Paragraph 8 and therefore denies them.

9. Applicant admits the allegations contained in Paragraph 9 of the Notice of Opposition.

10. With respect to Paragraph 10 of the Notice of Opposition, Applicant admits that the goods identified in Paragraphs 1 and 3 of the Notice of Opposition are frequently used together and are complementary goods and may emanate from the same source. In addition, since the term “Opposer’s Goods” is not defined in the Notice of Opposition, Applicant is without knowledge or information to form a sufficient belief as to the remaining allegations contained in Paragraph 10, and therefore denies them.

11. With respect to Paragraph 11 of the Notice of Opposition, Applicant admits that the goods identified in Paragraphs 1 and 3 of the Notice of Opposition are in each other’s natural zone of expansion and denies that the goods identified in Paragraph 3 of the Notice of Opposition are not in the zone of natural expansion of the goods identified in Paragraph 1 of the Notice of Opposition. In addition, since the term “Opposer’s Goods” is not defined in the Notice of Opposition, Applicant is without knowledge or information to form a sufficient belief as to the remaining allegations contained in Paragraph 11, and therefore denies them.

12. With respect to Paragraph 12 of the Notice of Opposition, Applicant admits that the goods identified in Paragraphs 1 and 3 of the Notice of Opposition may travel in the same channels of trade and be viewed by the same consumers. In addition, since the term “Opposer’s Goods” is not defined in the Notice of Opposition, Applicant is without knowledge or information to form a sufficient belief as to the remaining allegations contained in Paragraph 12, and therefore denies them

13. Paragraph 13 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant admits that concurrent registration and use of the Mark and the marks in Application Serial Nos. 85851976 and 86032818 would likely create confusion,

mistake or deception in the mind of prospective purchaser, but denies the remaining allegations contained in Paragraph 13 of the Notice of Opposition, including that such confusion would damage Opposer's rights.

14. Paragraph 14 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations contained in Paragraph 15 of the Notice of Opposition and demands strict proof thereof.

16. Applicant denies the allegations contained in Paragraph 16 of the Notice of Opposition.

17. Applicant denies the allegations contained in Paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegations contained in Paragraph 18 of the Notice of Opposition.

19. Paragraph 19 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 19 of the Notice of Opposition.

20. Paragraph 20 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 20 of the Notice of Opposition.

21. Paragraph 21 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 21 of the Notice of Opposition.

22. Applicant denies the allegation in Paragraph 22 of the Notice of Opposition and demands strict proof thereof.

23. Applicant denies the allegation in Paragraph 23 of the Notice of Opposition.

24. Applicant denies the allegation in Paragraph 24 of the Notice of Opposition.

25. Paragraph 25 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 25 of the Notice of Opposition.

26. Paragraph 26 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 26 of the Notice of Opposition.

27. Paragraph 27 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 27 of the Notice of Opposition.

28. Applicant denies the allegation in Paragraph 28 of the Notice of Opposition and demands strict proof thereof.

29. Applicant denies the allegation in Paragraph 29 of the Notice of Opposition.

30. Applicant denies the allegation in Paragraph 30 of the Notice of Opposition.

31. Applicant denies the allegation in Paragraph 31 of the Notice of Opposition.

32. Paragraph 32 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 32 of the Notice of Opposition.

33. Paragraph 33 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 33 of the Notice of Opposition. In addition, Applicant specifically denies that Application Serial No. 85723121 is for the mark BUZ BOX, and alleges that Application Serial No. 85723121 is for the mark BUZZ BOX.

34. Paragraph 34 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 34 of the Notice of Opposition.

35. Paragraph 35 of the Notice of Opposition contains conclusions of law or legal characterizations to which no responsive pleading is required. To the extent that a responsive pleading is required, Applicant denies the allegations contained in Paragraph 35 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

36. Applicant has priority over Application Serial Nos. 85851976 and 86032818 based on Applicant's filing date of October 12, 2012, contingent on registration of the Mark.

Applicant further asserts that Application Serial Nos. 85851976 and 86032818 were filed pursuant to Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), on February 16, 2013 and August 16, 2013 respectively, with no allegation of dates of use or dates of use in commerce prior to those dates.

WHEREFORE, Applicant requests that the Opposition be dismissed and the Mark be allowed to proceed to registration.

Applicant reserves the right to assert any additional affirmative defenses or counterclaims which become available after further investigation of progress in this Opposition.

Dated: February 11, 2014

Respectfully submitted,

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Attorneys for Applicant
BUZ BOX, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Answer and Affirmative Defenses to Notice of Opposition* was served on counsel for Opposer, this 11th day of February, 2014 by sending the same by first class mail, postage prepaid, and by electronic mail to:

Shaun M. Murphy, Esquire
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/Christina B. Humphries/
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