

ESTTA Tracking number: **ESTTA635402**

Filing date: **10/27/2014**

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

Proceeding	91216035
Party	Defendant Ross Walmsley
Correspondence Address	DARREN S RIMER RIMER & MATHEWSON LLP 30021 TOMAS , STE 300 RANCHO SANTA MARGARITA, CA 92688 UNITED STATES trademarks@rimermath.com
Submission	Answer
Filer's Name	Darren S. Rimer
Filer's e-mail	trademarks@rimermath.com
Signature	/Darren S. Rimer/
Date	10/27/2014
Attachments	Answer.pdf(401567 bytes)

Case **WALMR-001M**
Trademark Application

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

GoPro, Inc. Formerly Woodman Labs, Inc.,)	Opposition No. 91216035
)	
Opposer,)	Serial No.: 85/825,238
)	
vs.)	Mark: GOPRO G (AND DESIGN)
)	
Ross Walmsley,)	
)	
Applicant.)	
)	
_____)	

ANSWER TO NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Dear Sir/Madam:

Ross Walmsley ("Applicant") hereby responds to and answers the Notice of Opposition filed by Opposer herein as follows:

1. Applicant states that the instant application speaks for itself. Nevertheless, Applicant admits the allegations made in paragraph 1 of the Notice of Opposition.
2. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 2 of the Notice of Opposition, and therefore denies the same. However, Applicant states that the cited registration speaks for itself.

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 3 of the Notice of Opposition, and therefore denies the same. However, Applicant states that the cited applications speak for themselves.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 4 of the Notice of Opposition, and therefore denies the same. However, Applicant states that the cited applications speak for themselves.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 5 of the Notice of Opposition, and therefore denies the same.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 6 of the Notice of Opposition, and therefore denies the same.

7. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 7 of the Notice of Opposition, and therefore denies the same.

8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 8 of the Notice of Opposition, and therefore denies the same.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 9 of the Notice of Opposition, and therefore denies the same.

10. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 10 of the Notice of Opposition, and therefore denies the same.

11. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 11 of the Notice of Opposition, and therefore denies the same.

12. Applicant denies the allegations made in paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations made in paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations made in paragraph 14 of the Notice of Opposition.

15. Applicant asserts that the Trademark Act speaks for itself. Applicant otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations made in paragraph 15 of the Notice of Opposition, and therefore denies the same.

16. Applicant denies the allegations made in paragraph 16 of the Notice of Opposition.

17. Applicant objects to the premise of this allegation. Nonetheless, Applicant admits the allegations made in paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegations made in paragraph 18 of the Notice of Opposition.

19. Applicant denies the allegations made in paragraph 19 of the Notice of Opposition.

20. Applicant denies the allegations made in paragraph 20 of the Notice of Opposition.

21. Applicant denies the allegations made in paragraph 21 of the Notice of Opposition.

22. Applicant denies the allegations made in paragraph 22 of the Notice of Opposition.

23. Applicant denies the allegations made in paragraph 23 of the Notice of Opposition.

24. Applicant denies the allegations made in paragraph 24 of the Notice of Opposition.

25. Applicant denies the allegations made in paragraph 25 of the Notice of Opposition.

26. Applicant denies the allegations made in paragraph 26 of the Notice of Opposition.

27. Applicant denies the allegations made in paragraph 27 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

First Affirmative Defense

28. Opposer has failed to adequately maintain, police or enforce any trademark or proprietary rights it may once have had in its alleged trademarks.

Second Affirmative Defense

29. Opposer's pleaded marks are not inherently distinctive such that purchasers do not associate such marks with Opposer.

Third Affirmative Defense

30. Opposer's claims are barred to the extent that Opposer has abandoned any rights it may once have had in its pleaded trademarks.

Fourth Affirmative Defense

31. Opposer's claims are barred because, even if Opposer does have priority of use over its pleaded trademarks, there is no likelihood of confusion between Opposer's marks and Applicant's mark.

Fifth Affirmative Defense

32. Upon information and belief, there have been no instances of actual consumer confusion between Opposer's marks and the Applicant's mark.

Sixth Affirmative Defense

33. Opposer's claims are barred because, even if Opposer does have priority of use over its pleaded trademarks, the products and trade channels at issue are sufficiently different to avoid any confusion in the trade.

WHEREFORE, Applicant prays that the subject opposition proceeding be dismissed.

Respectfully submitted,

RIMER & MATHEWSON LLP



Dated: 10/27/14

By:

Darren S. Rimer
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Counsel for Applicant

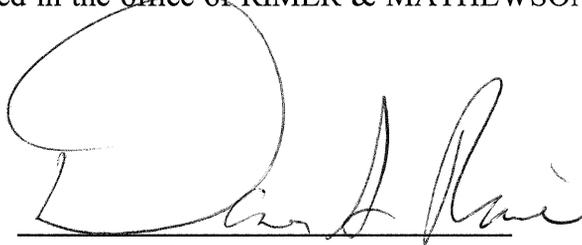
PROOF OF SERVICE

State of California)
) ss.
County of Orange)

I am over the age of 18 and not a party to the within action; my business address is 30021 Tomas, Suite 300, Rancho Santa Margarita, California 92688. On October 27, 2014, the attached **ANSWER TO NOTICE OF OPPOSITION** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

Connie L. Ellerbach
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041

Executed on October 27, 2014. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of RIMER & MATHEWSON LLP at whose direction service was made.

A handwritten signature in black ink, appearing to read "Darren S. Rimer", written over a horizontal line.

Darren S. Rimer