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

Proceeding	91216605
Party	Defendant Ted Wong JKD, LLC
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Date	07/08/2014
Attachments	Response to Opposition 07-08-14.pdf(49106 bytes)

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

DEREK A. LOPEZ, an Individual,)	
)	
Opposer,)	Opposition No.: 91216605
)	
vs.)	Serial No. 85/310,210
)	
TED WONG JKD, LLC,)	
)	
Applicant.)	

**APPLICANT’S RESPONSE AND AFFIRMATIVE DEFENSES
TO NOTICE OF OPPOSITION**

Sir/Madam:

The Applicant, TED WONG JKD, LLC, 23586 Calabasas Road, Calabasas, California 91302 UNITED STATES, United States of America, a California limited liability company (hereinafter “TWJ”), through its undersigned attorney, Theodore J. Minch, believes that its mark, **TED WONG JEET KUNE DO and Design** (hereinafter the “Mark”) for the services identified in its United States trademark application Serial Number 85/310,210 in International Class 041, specifically the “training services in the field of martial arts,” filed by TWJ on or about the May 2, 2011 (hereinafter the “Application”) and subsequently published for opposition in the U.S. Patent and Trademark Office *Official Gazette* of January 21, 2014, is fit for registration notwithstanding the allegations to the contrary as contained in the Notice of Opposition (hereinafter the “Notice”) to the Application filed by DEREK A. LOPEZ, an individual (hereinafter “Opposer”) on or about May 21, 2014. (TWJ and Opposer may sometimes be collectively referred to hereinafter as the “Parties.”)

For its response and answer to Opposer's Notice of Opposition, TWJ hereby states and avers as follows:

1. TWJ DENIES that Opposer owns the logo for which Applicant seeks registration (i.e. – the Mark). TWJ is without sufficient information from which to form a belief as to the truth of the remainder of Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 1. of the Notice.

2. TWJ is without sufficient information from which to form a belief as to the truth of Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 2. of the Notice.

3. TWJ is without sufficient information from which to form a belief as to the truth of Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 3. of the Notice.

4. TWJ DENIES Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 4. of the Notice.

5. TWJ is without sufficient information from which to form a belief as to the truth of Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 5. of the Notice.

6. TWJ is without sufficient information from which to form a belief as to the truth of Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 6. of the Notice.

7. TWJ is without sufficient information from which to form a belief as to the truth of Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 7. of the Notice.

8. TWJ DENIES Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 8. of the Notice.

OPPOSER'S FIRST CAUSE OF ACTION

9. Rhetorical Paragraph 9. of the Notice requires neither an admission nor denial.

10. TWJ DENIES Opposer's allegations as related to Opposer's so-called or alleged ownership rights in and to the Mark. TWJ ADMITS that the mark contained in rhetorical Paragraph 1. of the Notice, as claimed to be owned by Opposer, is identical to

the Mark. Based upon the foregoing, TWJ DENIES the remainder of Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 10. of the Notice.

11. To the extent that Opposer's allegations as contained in rhetorical Paragraph 11. of the Notice are even intelligible (a notion which TWJ does not concede), TWJ is left with no alternative other than to DENY said allegations, in their entirety.

OPPOSER'S SECOND CAUSE OF ACTION

12. Rhetorical Paragraph 12. of the Notice requires neither an admission nor denial.

13. Again, to the extent that Opposer's allegations as contained in rhetorical Paragraph 13. of the Notice are even intelligible (a notion which TWJ does not concede), TWJ is left with no alternative other than to DENY said allegations, in their entirety.

14. TWJ DENIES Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 14. of the Notice.

15. TWJ DENIES Opposer's allegations, in their entirety, as contained in rhetorical Paragraph 15. of the Notice.

TWJ'S AFFIRMATIVE DEFENSES

Comes now Applicant, TED WONG JKD, LLC (TWJ), by counsel, Theodore J. Minch, and submits its Affirmative Defenses to the Notice of Opposition as filed by DEREK A. LOPEZ, an individual, on May 21, 2014 (the Notice) against TWJ. For its Affirmative Defenses as to the Notice filed herein by Opposer, TWJ hereby states and avers as follows:

First Affirmative Defense **(Laches, Waiver, Estoppel)**

16. If the claims made in the Notice are to be accepted or proven as true, Opposer has been aware that there is an actual and justiciable controversy between Opposer and TWJ, each and every one, collectively, or, in the alternative, individually, regarding those matters raised by Opposer against TWJ in the Notice.

17. Despite Opposer's apparent knowledge of an actual and justiciable controversy between Opposer and Defendants, each and every one, collectively, or, in the

alternative, individually, regarding the matters raised by the Opposer in the Notice, Opposer, until the filing of the Notice, has taken no action whatsoever with regard to the same.

18. Based upon the foregoing, each and every claim alleged by the Opposer in the Notice is barred by the doctrines of waiver, laches, and / or estoppel.

Second Affirmative Defense
(Bad Faith)

19. The Notice, as against TWJ, is in response to the TWJ's lawful assertion of its rights in and to the Mark.

20. As a result of Opposer's bad faith actions as herein claimed, each and every one of the claims brought by Opposer in the Notice must be barred.

Third Affirmative Defense
(Unclean Hands)

21. The Notice, as against is in response to the TWJ's lawful assertion of TWJ's rights in and to the Mark.

22. As a result of Opposer's unclean hands with regard to Opposer's use and claimed ownership of the Mark, each and every one of the claims brought by Opposer in the Notice must be barred.

Fourth Affirmative Defense
(Failure to State a Claim for Relief)

23. Each and every one of the claims brought Opposer in the Notice fails to state a claim upon which relief can be granted as against TWJ; as such, each and every one of the claims made by Opposer in the Notice should be barred under Fed. Rule Civ. Pr. 12(b)(6).

Fifth Affirmative Defense
(Statute of Limitations)

24. Each and every one of the claims brought by Opposer in the Notice are barred by the applicable statute of limitations.

Sixth Affirmative Defense
(Illegality)

25. Each and every one of the claims brought by Opposer in the Notice are barred by the doctrine of illegality.

Seventh Affirmative Defense
(Fraud)

26. Each and every one of the claims brought by Opposer in the Notice are barred by the doctrine of fraud.

Eighth Affirmative Defense
(Lack of Standing)

27. Each and every one of the claims brought by Opposer in the Notice are barred because Opposer does not have standing to assert said claims.

28. Specifically, Opposer was not the rightful owner of the Mark and / or that design appearing in rhetorical Paragraph number 1. of the Notice.

29. Because Opposer does not own the rights to the Mark, Opposer has no standing from which to assert the claims it has asserted against Defendants in the Notice.

Ninth Affirmative Defense
(Invalidity of the Rights Asserted)

30. TWJ does not concede (and, in fact, contests) that any of the rights in and to the Mark (as defined by Opposer in rhetorical paragraph 1. of the Notice) asserted by Opposer to be owned by Opposer, are valid rights.

31. Because the rights claimed by Opposer in and to the Mark (as defined by Opposer in rhetorical Paragraph 1. of the Notice) are not valid, Opposer has no standing from which to assert the claims made by Opposer against Defendants in the Notice; as such, Opposer is precluded from asserting said claims on the basis of the invalidity of the very rights Opposer (wrongly) asserts it lawfully owns.

Tenth Affirmative Defense
(TWJ's Rights in and to the Mark)

32. As a result of TWJ's continuous use of the Mark since the time of TWJ's adoption thereof, the Mark has developed significant goodwill among the consuming public and consumer acceptance of the services offered by TWJ in conjunction with the Mark.

33. Such goodwill and widespread usage has caused the Mark to acquire distinctiveness with respect to TWJ, and caused the Mark to become a valuable asset of TWJ's.

Fourteenth Affirmative Defense
(Reservation of Affirmative Defenses Not Yet Known)

34. Defendants have insufficient information upon which to form a belief as to the whether they, collectively or individually, may have additional unstated affirmative defenses; Defendants consequently hereby reserve the right to assert additional affirmative defenses in the event discovery indicates that the same is appropriate.

WHEREFORE, TED WONG JKD, LLC (TWJ) respectfully requests that the Federal trademark registration sought by TWJ in United States Application Serial No. 85/310,210 be ALLOWED, that the Notice of Opposition (Notice) as filed by Opposer against the Application be, on each and every count contained in the Notice, DENIED, and for all other just and appropriate relief in the premises.

SOVICH MINCH, LLP,

Date: July 8, 2014

By: /theodorejminch/
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Attorneys for Ted Wong JKD, LLC (TWJ)

POWER OF ATTORNEY

I, Brice Wong, an individual, as duly appointed representative (managing member) of TED WONG JKD, LLC, a California Limited Liability Company, hereby appoint:

Theodore J. Minch (IN - #18798-49)
Sovich Minch LLP
10500 Crosspoint Boulevard
Indianapolis, Indiana 46256

To prosecute any and all matters relating to Application Serial No. 85/310,210, to transact all business in the Patent and Trademark Office in connection therewith, and to receive any and all future correspondence from the Patent and Trademark Office relating to this application and, subsequently, registration. Please direct all future correspondence in this regard to Mr. Minch's listed address.

/Brice Wong/
Brice Wong
Managing Member, Ted Wong JKD, LLC

July 8, 2014
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of Applicant's Response to Notice of Opposition was served on the Opposer, via service of counsel, Jon M. Gibbs, LOWNDES, DROSDICK, DOSTER, KANTOR & REED, P.A. 215 North Eola Drive Orlando, Florida 32801, jon.gibbs@lowndes-law.com, by first class and electronic mail on this 8th day of July, 2014.

/theodorejminch/
Theodore J. Minch (IN - #18798-49)
Sovich Minch, LLP