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Filing date: **10/03/2014**

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

Proceeding	91217546
Party	Defendant JWCC, LLC
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Signature	/s/ Robert C. Griffin
Date	10/03/2014
Attachments	JWCC- Applicant's Answer & Affirmative Defenses to Amended Notice of Opposition 10-03-14.pdf(881007 bytes ) JWCC- Exhibit a-CUPID Record List Display 09-02-14.PDF(819556 bytes ) JWCC- Exhibit b- Record List Display of Marks & Applications.PDF(593669 bytes )

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

In the matter of trademark application Serial No. 85717256  
For the mark CANNABISCUPID  
Published in the Official Gazette on June 10, 2014

CUPID plc.	)	Opposition No. 91217546
	)	
Opposer	)	
	)	
v.	)	
	)	
JWCC, LLC	)	
	)	
Applicant	)	

**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES TO AMENDED NOTICE  
OF OPPOSITION**

Applicant, JWCC, LLC (“CANNABISCUPID”), for its answer to the Amended Notice of Opposition filed by Cupid plc (“Cupid plc”) against application for registration of JWCC’s trademark CANNABISCUPID, Serial No. 85717256 filed January 30, 2014, and published for opposition on June 10, 2014 (the “Mark”), answers the opposition as follows:

1. Answering paragraph 1 of the Amended Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

2. Answering paragraph 2 of the Amended Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

3. Answering paragraph 3 of the Amended Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

4. Answering paragraph 4 of the Amended Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

5. Answering paragraph 5 of the Amended Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

6. Answering paragraph 6 of the Amended Notice of Opposition, Applicant admits the allegations.

7. Answering paragraph 7 of the Amended Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations. Applicant further affirmatively alleges that the Opposer's alleged mark CUPID.COM, and particularly the word CUPID is widely used by multiple entities, is descriptive of the goods or services offered under the mark, and has not been protected by Opposer. Opposer's alleged mark is inherently unprotectable.

8. Answering paragraph 8 of the Amended Notice of Opposition, Applicant denies each and every allegation contained therein.

9. Answering paragraph 9 of the Amended Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

10. Answering paragraph 10 of the Amended Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

11. Answering paragraph 11 of the Amended Notice of Opposition, Applicant denies each and every allegation contained therein. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's Mark and the pleaded mark of Opposer are not confusingly similar.

12. Answering paragraph 12 of the Amended Notice of Opposition, Applicant denies each and every allegation contained therein. Applicant further affirmatively alleges that Opposer's mark, CUPID.COM and the term CUPID, exist where numerous entities operate with more specific and distinctive trademarks using the descriptive term CUPID. Applicant's Mark is one such specific and distinctive mark. The use of the distinct word "cannabis" in the Applicant's mark eliminates any alleged association with the CUPID.COM mark therefore extinguishing any possible disparagement, contempt, or ridicule toward the Opposer.

13. Answering paragraph 13 of the Amended Notice of Opposition, Applicant denies each and every allegation contained therein. Applicant further affirmatively alleges Opposer's family of "CUPID" formative marks are just a few within a large swath of CUPID marks. There are at minimum 116 other live marks, and applications, incorporating the word CUPID. Forty-eight of those marks or pending marks are in class 45. CUPID.COM and the term CUPID, describe the activity which takes place within a general category of services, within which numerous entities operate with more specific and distinctive trademarks.

14. Answering paragraph 14 of the Amended Notice of Opposition, Applicant denies each and every allegation contained therein. Applicant further affirmatively alleges that there are at minimum 116 other live marks, and applications, incorporating the word CUPID. Forty-eight of those marks or pending marks are in class 45. The ubiquity of the term CUPID, in the market place, and in particular in the on-line dating and match-making industries, renders Opposer's allegations as mere opinion and non sequitur. A screenshot of the Record List Display, showing all Live marks and applications containing the term CUPID is attached hereto as Exhibit A. A Record List Display showing the marks and applications, both LIVE and DEAD, is attached hereto as Exhibit B.

15. Answering paragraph 15 of the Amended Notice of Opposition, Applicant denies each and every allegation contained therein. Applicant further affirmatively alleges that there are at minimum forty-eight other live "Cupid" marks or applications within the classification covering dating and social media, deeming Opposer's allegations as opinion and non sequitur. A screenshot of the Record List Display, showing all Live Serial numbers and search Cupid, is attached hereto as Exhibit A. A Record List Display showing the marks and applications, both LIVE and DEAD, is attached hereto as Exhibit B.

16. Answering paragraph 16 of the Amended Notice of Opposition, Applicant denies each and every allegation contained therein. Applicant further affirmatively alleges that there is no likelihood of damage to Opposer because Opposer's and Applicant's marks are sufficiently dissimilar.

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## **AFFIRMATIVE DEFENSES**

### **First Affirmative Defense**

Opposer fails to state a claim upon which relief can be granted.

### **Second Affirmative Defense**

There is no likelihood of confusion, mistake or deception because the Mark and the alleged trademark of Opposer are not confusingly similar. Applicant's Mark contains the specific term CANNABIS, that further distinguishes its mark from the descriptive term CUPID, and thus directs consumers to a specific genre or niche within its industry or service.

### **Third Affirmative Defense**

Alternatively, any similarity between Applicant's mark and Opposer's alleged trademark is restricted to that portion of the Mark consisting of the word CUPID, which is not distinctive but descriptive in terms of describing the match-making services in the on-line dating industry. For example, there are dozens of marks and applications in class 45 that incorporate the word CUPID. Furthermore, the Applicant's Mark has an additional term that targets a niche within the on-line dating and match-making industry, thereby separating itself as a dissimilar entity.

### **Fourth Affirmative Defense**

Opposer's rights in and to both the CUPID and .COM portions of its alleged CUPID.COM trademark are descriptive and unenforceable. In the alternative, the terms are merely descriptive of the goods or services offered. Opposer's alleged mark is therefore inherently unprotectable.

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### **Fifth Affirmative Defense**

Opposer's claims are barred by the overwhelming number of uses of term CUPID by other entities in the industry. There are at least forty-eight other live CUPID marks or applications within the class covering on-line dating and social media, thus making Opposer's opposition frivolous. A screenshot of the Record List Display, showing all Live Serial numbers and search terms CUPID, is attached hereto as Exhibit A. A Record List Display showing the marks and applications, both LIVE and DEAD, is attached hereto as Exhibit B.

### **Sixth Affirmative Defense**

Opposer's Notice of Opposition is made with unclean hands. Opposer is willfully and intentionally transgressing standards of good faith, equity, and conscience in impeding Applicant's registration and attempting to unfairly monopolize and restrict use of the descriptive term CUPID. There is no valid basis for the opposition. The term CUPID ubiquitously used a descriptive term in the industry and therefore the Opposer does not own the exclusive rights to use it. The Opposer is using its CUPID.COM mark as an unfair and unlawful restriction on trade as a tool to circumvent free enterprise and competition. Opposer is further advancing this scheme by its recent "intent to use" applications of CUPIDOSITY and CUPIDOLOGY – both of which contain extremely long descriptions of goods and services.

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WHEREFORE, Applicant requests that this Notice of Opposition be dismissed, and that Application Serial No. 85717256 be registered to the Applicant.

DATED: Billings, Montana  
October 3, 2014

Respectfully Submitted,

/s/ Robert C. Griffin  
Robert C. Griffin  
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G. Trenton Hooper  
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Billings, MT 59103-2529

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Applicant's Answer and Affirmative Defenses to Notice of Opposition has been served on opposing counsel by mailing said copy on October 3, 2014, via First Class Mail, postage prepaid:

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SIGNATURE: /s/ Robert C. Griffin  
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# **EXHIBIT A**



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Refine Search (Live)[LD] and (CUPID)[BI]

Current Search: S1: (Live)[LD] and (CUPID)[BI] docs: 116 occ: 263

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	86267077		UNDERCOVER CUPID	TSDR	LIVE
2	86015915		OFFICIAL CANDY OF CUPID	TSDR	LIVE
3	86180115		CANNABISCUPID	TSDR	LIVE
4	86308371		CUPID CUPID CONTROLS	TSDR	LIVE
5	86183629		CUPID	TSDR	LIVE
6	86285799		CUPIDS 5K	TSDR	LIVE
7	86163808		CUPID'S LINGERIE	TSDR	LIVE
8	86155541		CUPID STRIKE FORCE	TSDR	LIVE
9	86155532		CUPID STRIKE FORCE	TSDR	LIVE
10	86043270		CUPID ACADEMY	TSDR	LIVE
11	86012077		CUPIDS INBOX	TSDR	LIVE
12	85792081		CUPID ACADEMY	TSDR	LIVE
13	85953787	4587052	THESOCIALCUPID.COM	TSDR	LIVE
14	85953777	4466148	THE SOCIAL CUPID	TSDR	LIVE
15	85180367	3985427	QPID.ME	TSDR	LIVE
16	85841681	4556845	CUPID'S CLOSET	TSDR	LIVE
17	85945703	4469916	CARIBBEANCUPID.COM	TSDR	LIVE
18	85880233	4380396	CUROBIKS FITNESS	TSDR	LIVE
19	85859070	4414266	CUPID'S CRONIES	TSDR	LIVE
20	85831204	4372598	LIL' CUPIDZ	TSDR	LIVE
21	85776798	4367745	CUPIDS KISS	TSDR	LIVE
22	85722839	4337993	LESBIAN CUPID	TSDR	LIVE
23	85684778	4506327	CUPID & PSYCHE	TSDR	LIVE

24	85677248	4337627	ASSYRIAN CUPID	TSDR	LIVE
25	85630786	4271955	CUPIDBEE	TSDR	LIVE
26	85619985	4411811	CUPID	TSDR	LIVE
27	85508983	4314244	ITALIAN CUPID	TSDR	LIVE
28	85506079	4252876	CUPID SIZE	TSDR	LIVE
29	85462394	4197322	CUPIDCLASSIFIEDS.COM	TSDR	LIVE
30	85449139	4215385	CUPIDS ARROW	TSDR	LIVE
31	85415283	4211457	CUPID	TSDR	LIVE
32	85404534	4227286	C.A. CUPID	TSDR	LIVE
33	85370859	4117973	CUPID FOR HIRE	TSDR	LIVE
34	85297045	4246730	EXIM CUPID DA VINCCI HANIEL	TSDR	LIVE
35	85275492	4042024	CUPID'S CHASE 5K	TSDR	LIVE
36	85259024	4392734	CUPIDS INBOX	TSDR	LIVE
37	85258633	4036437	CUPID'S ARROW	TSDR	LIVE
38	85245901	4107771	THE CUPID STUNT	TSDR	LIVE
39	85242196	4170074	CUPID.COM	TSDR	LIVE
40	85241307	4031444	CUPID DATES	TSDR	LIVE
41	85218289	3998202	CUPID'S ARROW	TSDR	LIVE
42	85211230	4006022	XXXCUPID.COM	TSDR	LIVE
43	85171214	3977922	3DCUPID	TSDR	LIVE
44	85112150	4020524	CUPID BEADS	TSDR	LIVE
45	85111662	3976028	CUPID RADAR	TSDR	LIVE
46	85111643	3982719	CUPIDRADAR	TSDR	LIVE
47	85085480	3925611	CUPID FOR A CAUSE	TSDR	LIVE
48	85013117	3870648	CHEESE CUPID	TSDR	LIVE
49	85004151	3873362	CUPID	TSDR	LIVE
50	79137317		CUPID ENVY	TSDR	LIVE
51	79148605		CUPID ENVY	TSDR	LIVE
52	79142882		CUPID ENVY	TSDR	LIVE
53	79131097		CUPID GIRL	TSDR	LIVE
54	79130774		CUPID GIRL	TSDR	LIVE
55	79070383	3754960	MILITARYCUPID	TSDR	LIVE
56	79070382	3750117	MEXICANCUPID	TSDR	LIVE
57	79070381	3750116	PINKCUPID	TSDR	LIVE
58	79070380	3750115	DOMINICANCUPID	TSDR	LIVE
59	79070379	3750114	ASIANCUPID	TSDR	LIVE
60	79070378	3750113	INDIANCUPID	TSDR	LIVE
61	79070377	3750112	GAYCUPID	TSDR	LIVE
62	79070376	3750111	INTERRACIALCUPID	TSDR	LIVE
63	79070375	3750110	INDONESIANCUPID	TSDR	LIVE
64	79070374	3750109	INTERNATIONALCUPID	TSDR	LIVE
65	79070373	3750108	LATINCUPID	TSDR	LIVE
66	79070372	3750107	BLACKCUPID	TSDR	LIVE
67	79070371	3750106	VIETNAMCUPID	TSDR	LIVE

68	79070370	3750105	BBWCUPID	TSDR	LIVE
69	79070369	3750104	COLOMBIANCUPID	TSDR	LIVE
70	79070368	3750103	BRAZILCUPID	TSDR	LIVE
71	79070367	3754959	CHINACUPID	TSDR	LIVE
72	79069640	3754951	JAPANCUPID	TSDR	LIVE
73	79069410	3754948	CHRISTIANCUPID	TSDR	LIVE
74	79069409	3754947	KOREANCUPID	TSDR	LIVE
75	79069406	3754944	THAICUPID	TSDR	LIVE
76	79069405	3754943	AFRICANCUPID	TSDR	LIVE
77	79069404	3754942	FILIPINOCUPID	TSDR	LIVE
78	79053376	3658196	Q-PID	TSDR	LIVE
79	79053375	3658195	QPID	TSDR	LIVE
80	79027595	3247837	CUPIDMEDIA	TSDR	LIVE
81	78943460	3508736	CUPID	TSDR	LIVE
82	78876452	3213215	BICUPID.COM	TSDR	LIVE
83	78841047	3413184	CUPID BACK	TSDR	LIVE
84	78768955	4039268	CUPIDS ARROW	TSDR	LIVE
85	78680034	3112102	FASTCUPID	TSDR	LIVE
86	78034233	2675655	CUPID'S COACH	TSDR	LIVE
87	77763040	3816662	KISSED BY CUPID	TSDR	LIVE
88	77941167	3847839	MAGICALCUPID	TSDR	LIVE
89	77940177	4176057	CUPID INTIMATES THE BETTER WHY? COMPANY	TSDR	LIVE
90	77929919	3865872	CUPID COUPON	TSDR	LIVE
91	77915018	3948856	CUPID'S COUPONS	TSDR	LIVE
92	77897036	3824932	ONLINE CUPIDS	TSDR	LIVE
93	77775047	3746720	FILMQPID	TSDR	LIVE
94	77740394	3812878	CUPID AND GRACE	TSDR	LIVE
95	77722284	3779350	CUPID STRIKE FORCE	TSDR	LIVE
96	77519274	3764275	QUPID LUXE	TSDR	LIVE
97	77419870	3512323	CUPIDS X FACTORS	TSDR	LIVE
98	77367391	3699658	CUPID	TSDR	LIVE
99	77294659	3470946	CUPID	TSDR	LIVE
100	77225835	3477731	CUPIDS X FACTORS	TSDR	LIVE

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Refine Search (045)[IC] and (CUPID)[BI]

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Current Search: S5: (045)[IC] and (CUPID)[BI] docs: 66 occ: 143

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3	85945703	4469916	CARIBBEANCUPID.COM	TSDR	LIVE
4	85859070	4414266	CUPID'S CRONIES	TSDR	LIVE
5	85725119		CUPID ACADEMY	TSDR	DEAD
6	85722839	4337993	LESBIAN CUPID	TSDR	LIVE
7	85705042		CUPIDSGENE .COM	TSDR	DEAD
8	85677248	4337627	ASSYRIAN CUPID	TSDR	LIVE
9	85630786	4271955	CUPIDBEE	TSDR	LIVE
10	85530664		MYCUPIDSCHOICE.COM	TSDR	DEAD
11	85508983	4314244	ITALIAN CUPID	TSDR	LIVE
12	85462394	4197322	CUPIDCLASSIFIEDS.COM	TSDR	LIVE
13	85449139	4215385	CUPIDS ARROW	TSDR	LIVE
14	85447201		JAPANESECUPID	TSDR	DEAD
15	85426607		CUPID'S CONNECTIONS	TSDR	DEAD
16	85370859	4117973	CUPID FOR HIRE	TSDR	LIVE
17	85276435		CUPIDRATINGS.COM	TSDR	DEAD
18	85272896		CUPID GEEKS "A PLACE WHERE BEING DIFFERENT IS REALLY COMMON"	TSDR	DEAD
19	85242196	4170074	CUPID.COM	TSDR	LIVE
20	85211230	4006022	XXXCUPID.COM	TSDR	LIVE
21	85171214	3977922	3DCUPID	TSDR	LIVE
22	85111662	3976028	CUPID RADAR	TSDR	LIVE
23	85111643	3982719	CUPIDRADAR	TSDR	LIVE

24	79070383	3754960	MILITARYCUPID	TSDR	LIVE
25	79070382	3750117	MEXICANCUPID	TSDR	LIVE
26	79070381	3750116	PINKCUPID	TSDR	LIVE
27	79070380	3750115	DOMINICANCUPID	TSDR	LIVE
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34	79070373	3750108	LATINCUPID	TSDR	LIVE
35	79070372	3750107	BLACKCUPID	TSDR	LIVE
36	79070371	3750106	VIETNAMCUPID	TSDR	LIVE
37	79070370	3750105	BBWCUPID	TSDR	LIVE
38	79070369	3750104	COLOMBIANCUPID	TSDR	LIVE
39	79070368	3750103	BRAZILCUPID	TSDR	LIVE
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47	79027595	3247837	CUPIDMEDIA	TSDR	LIVE
48	78955947		QPIDZ	TSDR	DEAD
49	78876452	3213215	BICUPID.COM	TSDR	LIVE
50	78680034	3112102	FASTCUPID	TSDR	LIVE
51	78462803		TELLCUPID	TSDR	DEAD
52	78387934		BICUPID	TSDR	DEAD
53	78123190		OFFICE CUPID	TSDR	DEAD
54	78109983	2741821	FREE TRIA SHOT BY CUPID .COM THE BEST DATING PORTAL ON THE EAST COAST	TSDR	DEAD
55	77941167	3847839	MAGICALCUPID	TSDR	LIVE
56	77935961		STUPID CUPID	TSDR	DEAD
57	77897036	3824932	ONLINE CUPIDS	TSDR	LIVE
58	77775047	3746720	FILMQPID	TSDR	LIVE
59	77609479		SPORTYCUPID.COM	TSDR	DEAD
60	77474348		ECUPIDS.NET	TSDR	DEAD
61	77432263		CUPID'S ARROW	TSDR	DEAD
62	77419870	3512323	CUPIDS X FACTORS	TSDR	LIVE
63	77225835	3477731	CUPIDS X FACTORS	TSDR	LIVE
64	77120843	3334217	OKCUPID	TSDR	LIVE
65	77044068		IQUPID	TSDR	DEAD
66	77006448	3267374	CUPIDS OF COLUMBUS	TSDR	DEAD

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