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

Proceeding	91219077
Party	Defendant Telebrands Corp.
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Submission	Answer
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Date	12/23/2014
Attachments	Answer to Amended Notice of Opposition.pdf(232160 bytes)

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

Tristar Products, Inc.,)	
)	Opposition No. 91219077
Opposer,)	
)	Application Serial No.
v.)	86/232781
)	
Telebrands Corp.,)	
)	
Applicant.)	
)	

ANSWER TO AMENDED NOTICE OF OPPOSITION

Applicant Telebrands Corp. (“Telebrands”), by its undersigned counsel, hereby answers the Amended Notice of Opposition of Tristar Products, Inc. (“Tristar”) as follows:

COUNT I – Section 2(d) of the Trademark Act – Likelihood of Confusion

1. Telebrands admits the allegations contained in Paragraph 1 of the Amended Notice of Opposition.
2. Telebrands admits the allegations contained in Paragraph 2 of the Amended Notice of Opposition.
3. Telebrands is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 3 of the Amended Notice of Opposition, and therefore denies those allegations.
4. Telebrands is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 4 of the Amended Notice of Opposition, and therefore denies those allegations.

5. Telebrands denies the allegations contained in Paragraph 5 of the Amended Notice of Opposition.

6. Telebrands denies the allegations contained in Paragraph 6 of the Amended Notice of Opposition.

7. Telebrands is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 7 of the Amended Notice of Opposition, and therefore denies those allegations.

8. Telebrands denies that U.S. Trademark Application Serial No. 85/826741 is for the word mark COPPER WEAR, which words have been disclaimed, and is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 8 of the Amended Notice of Opposition, and therefore denies those allegations.

9. Telebrands is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 9 of the Amended Notice of Opposition, but admits that the records of the United States Patent and Trademark Office reflect the allegations recited in this paragraph.

10. Telebrands is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 10 of the Amended Notice of Opposition, but admits that the records of the United States Patent and Trademark Office reflect the allegations recited in this paragraph.

11. Telebrands admits that the records of the United States Patent and Trademark Office reflect that U.S. Trademark Application Serial No. 85/826741 was filed on January 18, 2013, which is prior to the date on which the subject application was filed, on March 26, 2014, as alleged in paragraph 11 of the Amended Notice of Opposition.

12. Telebrands denies the allegations contained in Paragraph 12 of the Amended Notice of Opposition.

13. Telebrands denies the allegations contained in Paragraph 13 of the Amended Notice of Opposition.

14. Telebrands denies that Opposer's mark is the word mark COPPER WEAR, but admit that both the subject application and U.S. Trademark Application Serial No. 85/826741 recite goods in International Class 025, as alleged in paragraph 14 of the Amended Notice of Opposition.

15. Telebrands denies the allegations contained in Paragraph 15 of the Amended Notice of Opposition.

16. Telebrands denies the allegations contained in Paragraph 16 of the Amended Notice of Opposition.

17. Telebrands denies the allegations contained in Paragraph 17 of the Amended Notice of Opposition.

COUNT II – Undisclaimed Portion of the Mark is Merely Descriptive

18. Paragraph 18 of the Amended Notice of Opposition does not require a response.

19. Telebrands admits the allegations contained in Paragraph 19 of the Amended Notice of Opposition.

20. Telebrands denies the allegations contained in Paragraph 20 of the Amended Notice of Opposition.

TELEBRANDS' AFFIRMATIVE DEFENSES

In addition to the defenses set forth below, Telebrands reserves the right to allege additional defenses as they become known through the course of discovery.

FIRST AFFIRMATIVE DEFENSE

The Amended Notice of Opposition fails to state a claim upon which relief may be granted to Opposer.

SECOND AFFIRMATIVE DEFENSE

There is no likelihood of confusion between Opposer's design mark, COPPER WEAR & Design, that is the subject of U.S. Trademark Application Serial No. 85/826741, and Applicant's mark, COPPER HANDS, that is the subject of U.S. Trademark Application Serial No. 86/232781.

THIRD AFFIRMATIVE DEFENSE

Opposer's mark that is the subject of U.S. Trademark Application Serial No. 85/826741 is a design mark that is described as follows: "The mark consists of the wording COPPER WEAR in grey, with a copper-colored paintbrush-style stroke at the diagonal between the two words." The colors grey and copper are claimed, but the words COPPER and WEAR are disclaimed. Accordingly, Opposer has no right to the words COPPER WEAR apart from the design mark as shown in the application. Applicant's mark does not use any of the design features of Opposer's mark.

FOURTH AFFIRMATIVE DEFENSE

Opposer's alleged common law word mark, COPPER WEAR, is not distinctive and is descriptive of the goods recited in the application.

Respectfully submitted,

Telebrands Corp.

Dated: December 23, 2014

/Robert T. Maldonado/

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **ANSWER TO AMENDED NOTICE OF OPPOSITION** has been served on Opposer's counsel, at the following address of record, by First Class Mail, postage prepaid, this 23rd day of December 2014.

Cheryl A. Clarkin, Esq.
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/Robert T. Maldonado/

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