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

Proceeding	91219656
Party	Defendant RK GLASSWARE, iNC, RK GLASSWARE, INC.
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Submission	Answer
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Date	01/08/2015
Attachments	Answer to Opposition - RK Glass.pdf(199408 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BRANDPREMIUMS BV,	)	Opposition No: 91219656
	)	
Opposer,	)	Application No: 86261432, 86265387
	)	
v.	)	Marks: AMSTERDAM HOME, and
	)	AMSTERDAM HOME and Design
RK GLASSWARE, INC	)	
	)	Published in the Official Gazette on
Applicant.	)	November 11, 2014 and October 7, 2014

ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES

The following is the Answer of Applicant RK Glassware ("Applicant") owner of Federal Trademark Applications Serial Nos. 86265387 and 86261432 for the marks AMSTERDAM HOME and AMSTERDAM HOME design mark (hereinafter "Applicant's Marks), by and through Counsel Michael P. Newman, to the Notice of Opposition filed on December 5, 2014 by BrandPremium BV, by and through Counsel Andrew J. Mitchell, and assigned Opposition No. 91219656.

1. Admitted.

2. Admitted.

3. Denied, as Applicant is without knowledge or Information sufficient to form a belief as to Opposer's date of first use for the "AMSTERDAM GLASS" mark and name. Applicant believes they have a prior use claim for "AMSTERDAM GLASS," and Applicant was first to affix mark in United States.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the notice of Opposition, specifically whether Opposer ever used mark in United States. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 5 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

6. Admitted.

7. Applicant Admits the first sentence of paragraph 7 of the Notice of Opposition. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in the second sentence of paragraph 7 of the Notice of Opposition. Since Applicant can neither admit nor deny the second sentence of paragraph 7 as written, Applicant must deny.

8. Denied. As Applicant has information and belief that they have priority claim to the mark "AMSTERDAM GLASS."

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the notice of Opposition, specifically whether Opposer ever used mark in United States. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the notice of Opposition, specifically whether

Opposer ever used mark in United States. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the notice of Opposition, specifically whether Opposer ever used mark in United States. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

12. Denied. Applicants packaging labeled made in China.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

15. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the notice of Opposition, specifically whether Opposer ever used mark in United States. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

16. Admitted

17. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the notice of Opposition, specifically whether

Opposer ever used mark in United States. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

18. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the notice of Opposition, specifically whether Opposer ever used mark in United States. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

FURTHERMORE, Applicant sets forth the following in support of its position:

FIRST AFFIRMATIVE DEFENSE

19. Applicant designed the mark "AMSTERDAM GLASS"

SECOND AFFIRMATIVE DEFENSE

20. Applicant was first to use mark "AMSTERDAM GLASS" on products in the United States.

THIRD AFFIRMATIVE DEFENSE

21. Applicant applied for protection of the mark "AMSTERDAM GLASS" under serial number 86065798.

FOURTH AFFIRMATIVE DEFENSE

22. Applicant has superior rights to Opposer to use the mark "AMSTERDAM GLASS"

FIFTH AFFIRMATIVE DEFENSE

23. Opposer has failed to state a claim for which relief can be granted.

SIXTH AFFIRMATIVE DEFENSE

24. Applicant is the rightful owner of the Mark "Amsterdam Glass" and Opposer has no standing to use the Mark to oppose the Mark "Amsterdam Home".

SEVENTH AFFIRMATIVE DEFENSE

25. As a result of the Applicant's Continuous use of the Marks "Amsterdam Glass" and "Amsterdam Home" since the time of Applicant's adoption thereof, the Marks have developed significant goodwill among the consuming public and consumer acceptance of the goods offered by Applicant in conjunction with the Marks. Such goodwill and widespread usage has caused the Marks to acquire distinctiveness with respect to Applicant, and caused the Marks to become a valuable asset of Applicant.

EIGHTH AFFIRMATIVE DEFENSE

26. Registration of the Mark "Amsterdam Home" should be allowed on the basis that the Marks "Amsterdam Home" and Amsterdam Glass" means the Applicant.

NINTH AFFIRMATIVE DEFENSE

27. Applicant's Mark, when used in connection with Applicant's goods, is not likely to cause confusion, or cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer.

TENTH AFFIRMATIVE DEFENSE

28 Applicant's Mark, when used in connection with Applicant's goods will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

ELEVENTH AFFIRMATIVE DEFENSE

29. Applicant's Mark when used in connection with Applicant's goods will not mistakenly be thought by the public to derive from Amsterdam, as "Amsterdam Home" is generic in nature, consumers would not believe the goods come from homes in Amsterdam, and all packaging labeled "Made in China".

WHEREFORE, Applicant requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant all other appropriate relief to Applicant as it deems just.

January 8, 2015

Respectfully Submitted

/s/ Michael P Newman
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES has been served on Andrew J Mitchell Counsel for Opposer BRANDPREMIUMS BV by mailing said copy on January 8, 2015, via First Class Mail, postage prepaid to:

Andrew J Mitchell
Paine Hamblen LLP
717 W. Sprague Ave, Suite 1200
Spokane, WA 99201

January 8, 2015

/s/ Michael P Newman