

ESTTA Tracking number: **ESTTA694467**

Filing date: **09/08/2015**

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

Proceeding	91220428
Party	Defendant Mattel, Inc.
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Submission	Answer
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Date	09/08/2015
Attachments	ELLE EEDEE - Mattel Answer to Notice of Opposition 91220428 - Hachette Filipacchi Presse.pdf(179426 bytes)

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

Hachette Filipacchi Presse,
Opposer,
v.
Mattel, Inc.,
Applicant.

Opposition No. 91220428

Mark: ELLE EEDEE
Serial No. 86/273,971

APPLICANT MATTEL, INC.'S
ANSWER TO NOTICE OF
OPPOSITION

TO THE COMMISSIONER FOR TRADEMARKS
TRADEMARK TRIAL AND APPEAL BOARD

Applicant Mattel, Inc. (“Applicant” or “Mattel”) hereby Answers the allegations set forth in Opposer Hachette Filipacchi Presse’s (“Opposer” or “Hachette”) Notice of Opposition and states as follows:

- 1) Applicant admits that, on May 7, 2014, Applicant filed Application Ser. No. 86/273,971 for ELLE EEDEE in connection with “Dolls, doll clothing, and doll accessories,” on the basis of Applicant’s bona fide intention to use the trademark ELLE EEDEE in commerce.
- 2) Admitted.
- 3) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 3 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 4) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 4 of the Notice of Opposition and, therefore, Applicant denies said allegations.

- 5) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 5 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 6) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 6 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 7) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 7 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 8) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 8 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 9) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 9 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 10) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 10 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 11) Applicant admits that Opposer purports to attach a number of registrations as Exhibits to its Notice of Opposition, but Applicant is without sufficient information to admit or deny the veracity of the information contained therein, or the remainder of the allegations in Numbered Paragraph 11 of the Notice of Opposition and on that basis denies the allegations.

- 12) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 12 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 13) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 13 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 14) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 14 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 15) Applicant admits that Application Ser. No. 86/273,971 was filed on May 7, 2014, but otherwise denies the allegations in Numbered Paragraph 15 of the Notice of Opposition.
- 16) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 16 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 17) Applicant denies the allegations in Numbered Paragraph 17 of the Notice of Opposition.
- 18) Applicant denies the allegations in Numbered Paragraph 18 of the Notice of Opposition.
- 19) Applicant denies the allegations in Numbered Paragraph 19 of the Notice of Opposition.
- 20) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 20 of the Notice of

Opposition and, therefore, Applicant denies said allegations.

- 21) Numbered Paragraph 21 of the Notice of Opposition calls for a legal conclusion as to the *prima facie* effect of owning a registration, such that no response is required. To the extent a response is required, Applicant denies the allegations in Numbered Paragraph 21.
- 22) Applicant incorporates by reference its responses to Paragraphs 1 through 21 of the Notice of Opposition, as if fully set forth herein.
- 23) Applicant is without sufficient information to admit or deny whether Opposer “co-brands the ELLE mark for numerous products and services,” and on that basis denies the allegation, and denies the remaining allegations in Numbered Paragraph 23 of the Notice of Opposition.
- 24) Applicant denies the allegations in Numbered Paragraph 24 of the Notice of Opposition.
- 25) Applicant denies the allegations in Numbered Paragraph 25 of the Notice of Opposition.
- 26) Applicant denies the allegations in Numbered Paragraph 26 of the Notice of Opposition.
- 27) Applicant denies the allegations in Numbered Paragraph 27 of the Notice of Opposition.
- 28) Applicant denies the allegations in Numbered Paragraph 28 of the Notice of Opposition.
- 29) Applicant incorporates by reference its responses to Paragraphs 1 through 28 of the Notice of Opposition, as if fully set forth herein.

- 30) Applicant denies that it requires permissions to use the ELLE EEDEE mark, and otherwise denies the allegations in Numbered Paragraph 30 of the Notice of Opposition.
- 31) Applicant denies the allegations in Numbered Paragraph 31 of the Notice of Opposition.
- 32) Applicant denies the allegations in Numbered Paragraph 32 of the Notice of Opposition.
- 33) Applicant incorporates by reference its responses to Paragraphs 1 through 32 of the Notice of Opposition, as if fully set forth herein.
- 34) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 34 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 35) Applicant has insufficient knowledge or information upon which to form a belief as to truth of the allegations set forth in Numbered Paragraph 35 of the Notice of Opposition and, therefore, Applicant denies said allegations.
- 36) Applicant denies the allegations in Numbered Paragraph 36 of the Notice of Opposition.
- 37) Applicant denies the allegations in Numbered Paragraph 37 of the Notice of Opposition.
- 38) Applicant denies the allegations in Numbered Paragraph 38 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

Pursuant to Rule 8(c) of the Federal Rules of Civil Procedure, Applicant further pleads the following separate and additional defenses. Applicant reserves the right to assert such additional affirmative defenses as discovery progresses.

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim Upon Which Relief May Be Granted)

The Opposition fails to state a claim upon which relief may be granted and fails to allege with specificity the bases of Opposer's claims that Applicant's subject mark is likely to cause confusion with Opposer's marks.

SECOND AFFIRMATIVE DEFENSE

(No Likelihood of Confusion)

There is no likelihood of confusion between Opposer's pleaded marks and Applicant's ELLE EEDEE mark for use on the goods identified in Trademark Application Ser. No. 86/273,971.

In view of the foregoing, Applicant requests that the Notice of Opposition be denied.

Respectfully submitted,

MATTEL, INC.

Date: September 8, 2015

By: _____


Matt Solmon
Senior Counsel
Mattel, Inc.

CERTIFICATE OF FILING

I, Matt Solmon, Senior Counsel of Mattel, Inc., hereby certify that APPLICANT MATTEL, INC.'S ANSWER TO NOTICE OF OPPOSITION is being filed with the Trademark Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office on the below date.

Date: September 8, 2015 _____ /s/Matt Solmon *MS* _____

CERTIFICATE OF SERVICE

I, Matt Solmon, Senior Counsel of Mattel, Inc., hereby certify that APPLICANT MATTEL, INC.'S ANSWER TO NOTICE OF OPPOSITION was duly served upon the Attorney of Record for Opposer by mailing a true and correct copy via first class mail to:

Gary H. Fechter
McCarter & English LLP
245 Park Avenue 27th Floor
New York, NY 10167

Date: September 8, 2015 _____ /s/Matt Solmon *MS* _____