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

Proceeding	91220573
Party	Defendant Linda Grandia
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Submission	Answer
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Signature	/Tami C. Solomon/
Date	07/06/2015
Attachments	Opp 91220573-Answer (Linda Grandia-Applicant) (F) s.pdf(22741 bytes)

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

In re: Application Serial No. 86/235,052
Mark: MISS MULTIVERSE
Filed: March 28, 2014
Published on October 14, 2014

MISS UNIVERSE L.P., LLLP,)	
)	Opposition No. 91220573
Opposer,)	
)	
v.)	
)	
LINDA GRANDIA,)	
)	
Applicant.)	
_____)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

ANSWER

Applicant, Linda Grandia (“Applicant”), on behalf of herself and no other defendant(s), hereby answers the Notice of Opposition on file herein, and in so doing, answers as follows:

GENERAL DENIAL

Applicant denies generally each and every allegation set forth in Opposer’s Notice of Opposition, and specifically denies Opposer’s claims and that Opposer is entitled to any relief.

AFFIRMATIVE DEFENSES

Without alleging that Applicant has the burden of proof on the following, Applicant states the following facts as separate and distinct affirmative defenses to Opposer's Notice of Opposition as follows:.

FIRST AFFIRMATIVE DEFENSE

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

1. Each of the purported claims for relief that Opposer alleges in its Notice of Opposition is barred or limited, in whole or in part, because each such claim does not state facts sufficient to constitute a cause of action under applicable law.

SECOND AFFIRMATIVE DEFENSE

(Privilege)

2. Each of the purported claims for relief that Opposer alleges in its Notice of Opposition is barred or limited, in whole or in part, because Applicant has not engaged in any unlawful or unfair business practices, and Applicant's conduct was proper and performed under the competition privilege.

THIRD AFFIRMATIVE DEFENSE

(Conduct Not Unfair or Unlawful)

3. Each of the purported claims for relief that Opposer alleges in its Notice of Opposition is barred or limited, in whole or in part, because Applicant's conduct was neither unlawful nor unfair in that Applicant was maintaining its rights to compete with Opposer and others on a level playing field and/or Applicant's conduct was consistent with the applicable standards in the industry and/or governing law.

FOURTH AFFIRMATIVE DEFENSE

(Exercise of Intellectual Property Rights)

4. Each of the purported claims for relief that Opposer alleges in its Notice of Opposition is barred or limited, in whole or in part, because the conduct about which Opposer

complains was at all times consistent with the lawful exercise of Applicant's intellectual property rights.

FIFTH AFFIRMATIVE DEFENSE

(Lack of Standing)

5. Each of the purported claims for relief that Opposer alleges in its Notice of Opposition is barred or limited, in whole or in part, because Opposer lacks standing to bring an action for the injuries alleged in the Notice of Opposition.

SIXTH AFFIRMATIVE DEFENSE

(Justification)

6. Each of the purported claims for relief that Opposer alleges in its Notice of Opposition is barred or limited, in whole or in part, because any conduct engaged in by Applicant has been reasonable, based upon independent, legitimate business and economic justifications, without any purpose or intent to injure competition.

SEVENTH AFFIRMATIVE DEFENSE

(Good Faith Pursuit of Legitimate Business Objectives)

7. Each of the purported claims for relief that Opposer alleges in its Notice of Opposition is barred or limited, in whole or in part, because Applicant's actions were undertaken in good faith, with the absence of malicious intent, and constitute lawful, proper and justified means to accomplish legitimate business objectives, including competition with its business competitors.

EIGHTH AFFIRMATIVE DEFENSE

(No Damage to Opposer)

8. Each of the purported claims for relief that Opposer alleges in its Notice of Opposition is barred or limited, in whole or in part, because any Opposer has not incurred or sustained, and will not incur or sustain, any legally cognizable damages as a result of the

actions alleged to have been taken by Applicant, and Opposer's claims for damages have no basis in law and fact.

NINTH AFFIRMATIVE DEFENSE

(Lack of Distinctiveness/Secondary Meaning)

9. Upon information and belief, the Cited Marks are not inherently distinctive and have not become distinctive in that consumers do not associate the terms in said marks with Opposer alone. Accordingly, Opposer's purported marks are not entitled to protection under the trademark laws.

RESERVATION

Applicant has not knowingly or intentionally waived any applicable affirmative defenses and reserves the right to assert and rely on such other applicable affirmative defenses as may become available or apparent during discovery proceedings or prior to trial.

PRAYER

WHEREFORE, Applicant prays for judgment dismissing Opposer's Notice of Opposition with prejudice and permitting registration of Applicant's Mark.

Respectfully submitted,

Dated: _____ July 6, 2015 _____

_____/s/
Anthony M. Keats
STUBBS ALDERTON & MARKILES, LLP
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Attorneys for Applicant
LINDA GRANDIA

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2015, I served the following document(s):

Applicant's Answer

upon counsel for Opposer named below:

**Andrea L. Calvaruso
Kelley, Drye & Warren, LLP
101 Park Avenue
New York, NY 10178**

by placing a true and correct copy thereof in a sealed envelope, postage prepaid, in First Class U.S. mail, for collection and mailing with the United States Postal Service on the same date.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 6, 2015, at Santa Monica, California.

/Tami C. Solomon/
Tami C. Solomon