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

Proceeding	91222118
Party	Defendant Sain, Shasta M
Correspondence Address	Francis John Ciaramella, Esquire Rick Ruz, PLLC 300 Sevilla Avenue Suite 309 Coral Gables, FL 33134 rickruz@ruzlaw.com;francis@ruzlaw.com
Submission	Answer
Filer's Name	R. William Graham
Filer's e-mail	billg@apatentlawyerplc.com
Signature	/R. William Graham/
Date	06/29/2015
Attachments	AnswerOpposition.pdf(52860 bytes)

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

In the Matter of U.S. Application Serial No. 91222118

For: Hustle Beautifully

Filed: August 9, 2014

Date of Publication: April 28, 2015

Victoria Foster

Opposer,

V.

Shasta M. Sain

Applicant.

Opposition No. 91222118

APPLICANT'S ANSWER

Now comes the Applicant, Shasta M. Sain, who answers the notice of opposition as follows:

1. Applicant lacks sufficient information upon which to confirm or deny the allegations therein and therefore the same is Denied.
2. Applicant, Shasta M. Sain is an individual and has an address at 1346 Marot Drive Dayton, Ohio 45417 and denies the reminder of the allegations of paragraph 1.

3. Applicant lacks sufficient information upon which to confirm or deny the allegations therein and therefore the same is Denied.
4. Applicant admits that Opposer filed a trademark application for the mark Hustle Beautifully bearing serial number 86/364,717 and lacks sufficient information upon which to confirm or deny any other pf the allegations therein and therefore the same is Denied.
5. Applicant admits that she filed an application bearing Serial Number 86/362,042 for the mark “HUSTLE BEAUTIFULLY ” in international Class 025 for the goods: Wearable garments and clothing, namely, shirts.
6. Applicant admits that Opposer’s application was refused based upon an Office Action dated November 25, 2014 on grounds of ornamental refusal and Applicant’s prior pending application Serial No. 86362042.
7. Applicant admits her application was published April 28, 2015.
8. Denied.
9. Denied.
10. Denied.
11. Denied.

AFFIRMATIVE DEFENSES

Applicant sets forth its affirmative defenses. Applicant does not assume the burden of proving any fact, issue or element of a cause of

action where such burden belongs to Opposer. Nothing stated herein is to be construed as acknowledging any particular issue or subject matter is relevant to Opposer's allegations.

12. Applicant is not the cause of any direct or indirect damage to Opposer.

13. The Notice of Opposition, and each and every purported cause of action therein, are barred by failure to state a claim upon which relief could be granted.

14. The Notice of Opposition, and each and every purported cause of action therein, are barred by unclean hands.

15. The Notice of Opposition, and each and every purported cause of action therein, are barred by estoppel.

16. The Notice of Opposition, and each and every purported cause of action therein, are barred by acquiescence.

17. The Notice of Opposition, and each and every purported cause of action therein, are barred by laches.

18. The Notice of Opposition, and each and every purported cause of action therein, are barred by fraud on the Office, Opposer intentionally misrepresented to the Office in executing her declaration under 35 USC 1051(a) "The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be

likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive and ” the dates of first use and first use in commerce in order to obtain registration if its application and registration would be in contravention Section 14(3) of the Lanham Act.

19. Applicant hereby gives notice it intends to rely on any additional affirmative defenses that become available or apparent during discovery and to file counterclaims and reserves right to amend its answer to assert such defenses.

WHEREFORE, Applicant respectfully requests that this Notice of Opposition be dismissed and the application serial number 86362042 be allowed to proceed to registration.

Respectfully submitted,

/R. William Graham/

R. William Graham

A Patent Lawyer, PLC R. William Graham
3340 Rosewood Lane
Oklahoma City, OK 73120
Date: Tuesday, July 1, 2014

By: R. William Graham on behalf of Shasta M. Sain
tel.8772036835
fax 937 221 0300
Attorney for Applicant

Certificate of Service

I certify that on Monday, June 29, 2015 caused a copy of the foregoing Applicant's Answer to be transmitted by First Class U.S. Mail to the Opposer at the following address:

Michael A. Marrero
Ulmer & Bern LLP
600 Vine Street Suite 2800
Cincinnati, Ohio 45202-2409

/R. William Graham/