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

Proceeding	91224246
Party	Defendant Nella Chunky LLC
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Date	11/12/2015
Attachments	FINAL Answer to Notice of Opposition.pdf(105739 bytes)

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

PARAMOUNT PICTURES CORPORATION,

Opposer,

v.

Opposition No. 91224246

NELLA CHUNKY LLC,

Applicant.

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

In response to the Notice of Opposition (hereafter “Notice”) filed by PARAMOUNT PICTURES CORPORATION (hereafter “Opposer”) on October 7, 2015, the Applicant, NELLA CHUNKY LLC (hereafter “Applicant”), answers the Notice identified above as follows:

1. In response to the allegations of paragraph 1 of the Notice, the Applicant is without knowledge.
2. In response to the allegations of paragraph 2 of the Notice, the Applicant is without knowledge.
3. In response to the allegations of paragraph 3 of the Notice, the Applicant is without knowledge.
4. In response to the allegations of paragraph 4 of the Notice, the Applicant is without knowledge.
5. In response to the allegations of paragraph 5 of the Notice, the Applicant is without knowledge.

6. In response to the allegations of paragraph 6 of the Notice, the Applicant is without knowledge.
7. In response to the allegations of paragraph 7 of the Notice, the Applicant is without knowledge.
8. In response to the allegations of paragraph 8 of the Notice, the Applicant is without knowledge.
9. In response to the allegations of paragraph 9 of the Notice, the Applicant is without knowledge.
10. Applicant denies the allegations of paragraph 10 of the Notice.
11. Applicant denies the allegations of paragraph 11 of the Notice.
12. Applicant denies the allegations of paragraph 12 of the Notice.
13. In response to the allegations of paragraph 13 of the Notice, the Applicant is without knowledge.
14. In response to the allegations of paragraph 14 of the Notice, the Applicant is without knowledge.
15. Applicant denies the allegations of paragraph 15 of the Notice.
16. In response to the allegations of paragraph 16 of the Notice, the Applicant is without knowledge.
17. Applicant denies the allegations of paragraph 17 of the Notice.
18. In response to the allegations of paragraph 18 of the Notice, the Applicant is without knowledge.
19. In response to the allegations of paragraph 19 of the Notice, the Applicant is without knowledge.

20. In response to the allegations of paragraph 20 of the Notice, the Applicant is without knowledge.

21. Applicant admits the allegations of paragraph 21 of the Notice.

22. Applicant admits the allegations of paragraph 22 of the Notice to the extent that the date of first use is at least as early as May 10, 2012 and denies all other allegations or implication contained in paragraph 22.

23. In response to the allegations of paragraph 23 of the Notice, the Applicant is without knowledge.

24. Applicant denies the allegations of paragraph 24 of the Notice.

COUNT I
LIKELIHOOD OF CONFUSION

25. Applicant reincorporates paragraphs 1 through 24 as if fully set forth herein.

26. Applicant denies the allegations of paragraph 26 of the Notice.

27. Applicant denies the allegations of paragraph 27 of the Notice.

28. Applicant denies the allegations of paragraph 28 of the Notice.

29. Applicant denies the allegations of paragraph 29 of the Notice.

30. Applicant denies the allegations of paragraph 30 of the Notice.

31. Applicant denies the allegations of paragraph 31 of the Notice.

32. Applicant denies the allegations of paragraph 32 of the Notice.

33. Applicant denies the allegations of paragraph 33 of the Notice.

34. Applicant denies the allegations of paragraph 34 of the Notice.

COUNT II
FRAUD

35. Applicant reincorporates paragraphs 1 through 24 as if fully set forth herein.

36. Applicant denies the allegations of paragraph 36 of the Notice.
37. In response to the allegations of paragraph 37 of the Notice, the Applicant is without knowledge.
38. In response to the allegations of paragraph 38 of the Notice, the Applicant is without knowledge.
39. In response to the allegations of paragraph 39 of the Notice, the Applicant is without knowledge.
40. Applicant denies the allegations of paragraph 40 of the Notice.
41. Applicant denies the allegations of paragraph 41 of the Notice.
42. Applicant denies the allegations of paragraph 42 of the Notice.
43. Applicant denies the allegations of paragraph 43 of the Notice.
44. Applicant denies the allegations of paragraph 44 of the Notice.
45. Applicant denies the allegations of paragraph 45 of the Notice.

Affirmative Defenses

In further answer to the Notice, the Applicant asserts that:

First Affirmative Defense

46. Opposer's Notice fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining the opposition.

Second Affirmative Defense

47. Opposer has no priority of use to the ON WEDNESDAYS WE WEAR PINK mark. In fact, Opposer's only application ON WEDNESDAYS WE WEAR PINK (Serial No. 86331230) claims a date of first use of no earlier than February 18, 2013, for "belts; t-shirts; tank tops" in International Class 025, and no earlier than August 31, 2013, for

“bracelets” in International Class 014. Both dates of first use are after Applicant’s dates of first use. Therefore, Opposer has no priority to the ON WEDNESDAYS WE WEAR PINK mark.

Third Affirmative Defense

48. Ordinary Consumers would not confuse or conclude that the parties’ products share a common source or affiliation or connection.

Fourth Affirmative Defense

49. Applicant’s trademark for ON WEDNESDAYS WE WEAR PINK was filed for standard characters, and covers the words ON WEDNESDAYS WE WEAR PINK in any color or font.

Fifth Affirmative Defense

50. On information and belief, Opposer’s have not used the mark ON WEDNESDAYS WE WEAR PINK as either a trademark or service mark for any goods or services until February 18, 2013, and August 31, 2013 (i.e., the Opposer’s claimed dates of first use).

Applicant reserves the right to amend this Answer to assert any additional affirmative defenses arising from any applicable facts or law that may be revealed during discovery.

Relief Requested

WHEREFORE, the Applicant asks that this Opposition proceeding be dismissed forthwith.

By: /Francis John Ciaramella/
Francis John Ciaramella, Esq.
Florida Bar No. 111927

And

By: /Rick Ruz/
Rick Ruz, Esq.
Florida Bar No. 42090

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition has been served on the following via email this 12th day of November 2015:

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