

ESTTA Tracking number: **ESTTA708251**

Filing date: **11/12/2015**

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

Proceeding	91224413
Party	Defendant Jiang, Li
Correspondence Address	LI JIANG 509 Saddle Ridge Ln Rockville, MD 20850-5707 fantasa.usa@gmail.com
Submission	Answer
Filer's Name	Lucas S. Michels
Filer's e-mail	lsmichels@ironmarklaw.com
Signature	/Lucas S. Michels/
Date	11/12/2015
Attachments	2015-11-12 Answer to Notice of Opposition - Jiang, Li.pdf(93241 bytes)

6. Applicant admits that the application filing date for U.S. Trademark Registration No. 2447377 was February 18, 1999. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in paragraph 6 and, on that basis, denies the same.

7. Applicant admits that the application filing date for U.S. Trademark Registration No. 3133514 was June 17, 2004. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in paragraph 7 and, on that basis, denies the same.

8. Applicant admits that the claimed date of first use and use in U.S. commerce for U.S. Trademark Application Serial No. 86616450 was February 1, 2015. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in paragraph 8 and, on that basis, denies the same.

9. Applicant admits that the filing date for U.S. Trademark Application Serial No. 86616450 was May 1, 2015. Applicant denies the remaining allegations of Paragraph 9.

10. Applicant denies the allegations of Paragraph 10.

11. Applicant denies the allegations of Paragraph 11.

Request for Relief

12. Applicant admits that Opposer is the owner of U.S. Trademark Registration No. 2447377, which speaks for itself. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in paragraph 12 and, on that basis, denies the same.

13. Applicant admits that Opposer is the owner of U.S. Trademark Registration No. 3133514, which speaks for itself. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in paragraph 13 and, on that basis, denies the same.

14. Applicant denies the allegations of Paragraph 14.

The remainder of this section of the Notice of Opposition is a legal conclusion and states a legal claim for which no response is necessary. Applicant notes that Opposer's request for fees is improper as the Board may only determine the right to register a mark, not award fees. *See* TBMP § 102.01; *see also* 15 U.S.C. § 1067(a).

Affirmative Defenses

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

16. The word FANTASIE is a pseudo-mark for the term FANTASY and, is such, a highly diluted trademark in association with goods under International Class 025,

and is therefore a weak mark. Opposer's purported rights extend no further than to the specific mark which Opposer alleges it owns, none of which is the same as or confusingly similar to Applicant's mark in terms of connotation, appearance and/or pronunciation.

17. Applicant's use of its mark will neither mistakenly be thought by the public to derive from the same source as Opposer's goods and services, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

18. Applicant's mark in its entirety is sufficiently distinctively different from Opposer's mark to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's goods.

19. Applicant's mark, when used on Applicant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods by Opposer.

WHEREFORE, Applicant, having set forth its Answer to the Notice of Opposition and its affirmative defenses, respectfully requests that this opposing proceeding be dismissed, with prejudice.

Respectfully submitted this 12TH day of NOVEMBER, 2015.

By: /s/ Lucas S. Michels
Lucas S. Michels
IRONMARK LAW GROUP, PLLC
2311 N. 45th Street, Suite 365
Seattle, WA 98103
Tel: (206) 547-1914
Fax: (206) 260-3688
E-Mail: lsnichels@ironmarklaw.com

Attorney for Applicant

Certificate of Service

I hereby certify that a true and complete copy of the foregoing *Answer to Notice of Cancellation* was served on Opposer by service of said copy upon its attorneys on November 12, 2015, via electronic mail, to:

William J. Seiter
SEITER LEGAL STUDIO
2500 Broadway, Building F, Suite F-125
Santa Monica, California 90404
E-Mail: williamjseiter@seiterlegalstudio.com

By: /s/ Lucas S. Michels
Lucas S. Michels
IRONMARK LAW GROUP, PLLC
2311 N. 45th Street, Suite 365
Seattle, WA 98103
Tel: (206) 547-1914
Fax: (206) 260-3688
E-Mail: ismichels@ironmarklaw.com

Attorney for Applicant