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

Proceeding	91224959
Party	Defendant Maker, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Maker Studios, Inc.,	)	
	)	
Opposer	)	
	)	
vs.	)	
	)	
Maker, Inc.,	)	<b>Opposition No.</b> 91224959
	)	<b>Marks:</b> MAKER; MAKER.ME
	)	<b>Application Serial Nos.</b> 85573658;
	)	85618676
Applicant	)	

**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES**

Maker, Inc. (“Applicant”) hereby answers and otherwise pleads to the Notice of Opposition filed by Maker Studios, Inc. (“Opposer”) against U.S. Application Serial Nos. 85573658 and 85618676 for the marks MAKER and MAKER.ME.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of paragraph 1, and therefore denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2, and therefore denies the same.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3, and therefore denies the same.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4, and therefore denies the same.
5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5, and therefore denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6, and therefore denies the same.
7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7, and therefore denies the same.
8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8, and therefore denies the same.
9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9, and therefore denies the same.
10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10, and therefore denies the same.
11. Applicant denies that the allegations of paragraph 11 reflect the United States Patent and Trademark Office (“USPTO”) records. In particular, the “first use in commerce” date asserted for Reg. Nos. 4505998, 4260923, and 4757712 are inconsistent with the dates of first used listed in the USPTO records.
12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12, and therefore denies the same.
13. Applicant admits the allegations of paragraph 13.
14. Applicant admits that the allegations of paragraph 14 reflect the United States Patent and Trademark Office (“USPTO”) records.
15. Applicant admits that the allegations of paragraph 15 reflect the United States Patent and Trademark Office (“USPTO”) records.
16. Applicant admits that the allegations of paragraph 16 reflect the United States Patent and Trademark Office (“USPTO”) records.

17. Applicant admits that the allegations of paragraph 17 reflect the United States Patent and Trademark Office (“USPTO”) records.
18. Defendant realleges and incorporates by reference as if fully stated herein its responses to paragraphs 1 through 17.
19. Applicant denies the allegation of paragraph 19.
20. Applicant denies the allegation of paragraph 20.
21. Applicant denies the allegation of paragraph 21.
22. Applicant denies the allegation of paragraph 22.
23. Applicant denies the allegation of paragraph 23.

#### **AFFIRMATIVE DEFENSES**

1. Opposer is not entitled to the relief sought because the filing date of Applicant’s MAKER application pre-dates the filing date and date of first use of the MAKER GEN, MAKER MAX, and the Class 42 MAKER & Design marks.
2. Upon information and belief, Opposer’s prayer for relief is barred by Opposer’s non-use and abandonment of the rights upon which Opposer’s Notice of Opposition is based.
3. Opposer is not entitled to the relief sought because there is no likelihood of confusion between Opposer’s mark and Applicant’s mark.
4. The claims set forth in Opposer’s Notice of Opposition are, on information and belief, barred in whole or in part because the federal registrations on which Opposer’s claims are premised are invalid.
5. Applicant reserves the right to plead additional affirmative defenses as this matter progresses and as discovery progresses.

Respectfully submitted,

**BARNES & THORNBURG LLP**

/s/ Julia Spoor Gard

Date: April 1, 2016

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of this APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES has been served on April 1, 2016 by depositing a copy of the same in the United States mail, first class postage prepaid and properly addressed to:

Linda K. McLeod  
Kelly IP, LLP  
1919 M Street, N.W.  
Washington, DC 20036

/s/ Caitlin R. Byczko \_\_\_\_\_