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

Proceeding	91225434
Party	Defendant JRM NutraSciences, LLC
Correspondence Address	THOMAS D. FOSTER TDFOSTER INTELLECTUAL PROPERTY LAW 11622 EL CAMINO REAL STE 100 SAN DIEGO, CA 92130-2051 foster@tdfoster.com
Submission	Answer
Filer's Name	Thomas D. Foster
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Date	02/29/2016
Attachments	6322.032-00 20160229 ANSWER.pdf(49313 bytes)

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

Shephard Fairey; Bold Strategies)	
)	
)	
Opposers,)	
)	Opposition No. 91225433 (Fairey)
)	Opposition No.:91225434 (Bold)
v.)	Mark: OBEY THE PUMP
)	Serial No.: 86518646
JRM NutraSciences, LLC)	
)	
Applicant.)	

ANSWER TO NOTICES OF OPPOSITION

JRM NutraSciences LLC (“Applicant”) a limited liability company organized and existing under the laws of Delaware with a principal place of business at 53 Merrick Rd Suite 193 Freeport NEW YORK 11520, through its counsel hereby responds to the notice of opposition as filed by Shephard Fairey and Bold Strategies, Inc (“Opposers”) as follows:

1. Applicant admits the allegations of Paragraph 1 of the Opposition.
2. Applicant admits the allegations of Paragraph 2 of the Opposition.
3. Applicant admits the allegations of Paragraph 3 of the Opposition.
4. Applicant admits the allegations of Paragraph 4 of the Opposition.
5. Applicant admits the allegations of Paragraph 5 of the Opposition.
6. Applicant admits the allegations of Paragraph 6 of the Opposition.
7. Applicant denies the allegations of Paragraph 7 of the Opposition.
8. Applicant denies the allegations of Paragraph 8 of the Opposition.
9. Applicant admits the allegations of Paragraph 9 of the Opposition.
10. Applicant denies the allegations of Paragraph 10 of the Opposition.
11. The records of the U.S. Trademark Office speak for themselves with regards to

Registration No. 2632359. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 11 of the Opposition, and on that basis denies them.

12. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 2762299. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 12 of the Opposition, and on that basis denies them.

13. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 3282078. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 13 of the Opposition, and on that basis denies them.

14. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 3592057. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 14 of the Opposition, and on that basis denies them.

15. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 3770877. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 15 of the Opposition, and on that basis denies them.

16. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 4735537 and its underlying application Serial No. 85446095. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 16 of the Opposition, and on that basis denies them.

17. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 4263319. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 17 of the Opposition, and on that basis denies them.

18. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 4365576. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 18 of the Opposition, and on that basis denies them.

19. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 4778645 and its underlying application Serial No. 86294681. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 19 of the Opposition, and on that basis denies them.

20. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 4569752. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 20 of the Opposition, and on that basis denies them.

21. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 4859374 and its underlying application Serial No. 86605216. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 21 of the Opposition, and on that basis denies them.

22. The records of the U.S. Trademark Office speak for themselves with regards to Registration No. 4859555 and its underlying application Serial No. 86607605. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 22 of the Opposition, and on that basis denies them.

23. The records of the U.S. Trademark Office speak for themselves with regards to Registration Nos. 2632359, 2762299, 3282078, 3592057, 3770877, 4263319, 4365576, 4569752, 4735537, 4778645, 4859374 and 4859555. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 23 of the Opposition, and on that basis denies them.

24. Applicant is without knowledge or information sufficient to admit or deny the allegations concerning “Opposer’s Marks” since this term is nebulous and undefined and on that

basis denies the allegations in Paragraph 24. If by the term “Opposer’s Marks” Opposer is referring to Opposer’s Registrations, then Applicant admits that it appears that Opposer has priority.

25. Applicant is without knowledge or information sufficient to admit or deny the allegations concerning “Opposer’s Marks” since this term is nebulous and undefined and on that basis denies the allegations in Paragraph 25. If by the term “Opposer’s Marks” Opposer is referring to Opposer’s Registrations, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 25 of the Opposition, and on that basis denies them.

26. Applicant is without knowledge or information sufficient to admit or deny the allegations concerning “Opposer’s Marks” since this term is nebulous and undefined and on that basis denies the allegations in Paragraph 26. If by the term “Opposer’s Marks” Opposer is referring to Opposer’s Registrations, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 26 of the Opposition, and on that basis denies them.

27. Applicant is without knowledge or information sufficient to admit or deny the allegations concerning “Opposer’s Marks” since this term is nebulous and undefined and on that basis denies the allegations in Paragraph 26. If by the term “Opposer’s Marks” Opposer is referring to Opposer’s Registrations, Applicant denies the allegations in Paragraph 27.

28. Denied as to the goods in Class 5. Admitted as to the goods in Class 25 as set forth in Registration Nos. 2632359, 3282078, 3592057, 3770877 to the extent that they comprise clothing. Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 28 of the Opposition, and on that basis denies them.

29. Applicant is without knowledge or information sufficient to admit or deny the allegations concerning “Opposer’s Marks” since this term is nebulous and undefined and on that basis denies the allegations in Paragraph 29. If by the term “Opposer’s Marks” Opposer is referring to Opposer’s Registrations, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 29 of the Opposition, and on that basis denies them.

30. Applicant denies the allegations of Paragraph 30 of the Opposition.

31. Applicant is without knowledge or information sufficient to admit or deny the allegations concerning “Opposer’s Marks” since this term is nebulous and undefined and on that basis denies the allegations in Paragraph 30. If by the term “Opposer’s Marks” Opposer is referring to Opposer’s Registrations, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 31 of the Opposition, and on that basis denies them.

32. To the extent Paragraph 32 recites legal conclusions, those conclusions need not be answered. To the extent any factual allegations are contained in Paragraph 32, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 32 of the Opposition, and on that basis denies them.

33. To the extent Paragraph 33 recites legal conclusions, those conclusions need not be answered. To the extent any factual allegations are contained in Paragraph 33, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 33 of the Opposition, and on that basis denies them.

34. To the extent Paragraph 34 recites legal conclusions, those conclusions need not be answered. To the extent any factual allegations are contained in Paragraph 34, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 34 of the Opposition, and on that basis denies them.

35. To the extent Paragraph 35 recites legal conclusions, those conclusions need not be answered. To the extent any factual allegations are contained in Paragraph 35, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 35 of the Opposition, and on that basis denies them.

36. To the extent Paragraph 36 recites legal conclusions, those conclusions need not be answered. To the extent any factual allegations are contained in Paragraph 36, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 36 of the Opposition, and on that basis denies them.

37. To the extent Paragraph 37 recites legal conclusions, those conclusions need not be answered. To the extent any factual allegations are contained in Paragraph 37, Applicant lacks knowledge or information sufficient to form a belief as to the truth of any specific allegations in Paragraph 37 of the Opposition, and on that basis denies them.

AFFIRMATIVE DEFENSES

By way of further answer, Applicant alleges the following affirmative defenses:

38. Applicant is informed and believes and thereon alleges that the Opposition, and each purported cause of action contained therein, fails to state a claim upon which relief may be granted.

39. Applicant is informed and believes and thereon alleges that the Opposition is barred by the doctrines of acquiescence, waiver, consent, laches, and/or estoppel, in that numerous others have used and continue to use marks incorporating the term “OBEY.”

40. Applicant is informed and believes and thereon alleges that the strength of Opposer’s Marks are diluted by the existence of other uses of marks incorporating the term “OBEY.”

41. Applicant may have additional, yet unstated affirmative defenses which discovery may disclose. Applicant reserves the right to assert these additional affirmative defenses as appropriate when they are discovered.

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PRAYER FOR RELIEF

WHEREFORE, Applicant requests judgment in its favor, dismissing Opposer's Notice of Opposition and allowing Applicant's application to proceed to registration.

Date: February 29, 2016 TDFoster - Intellectual Property Law

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this the 29th day of February 2016, a true and correct copy of the foregoing Answer was sent first class mail to Opposer's counsel at the following address:

Drew M. Smith
Holley & Menker, P.A.
P.O. Box 1650
Bend, OR 97709

Date: February 29, 2016 /Thomas D. Foster/
Thomas D. Foster, Esq.

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being transmitted by electronic mail to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, via the ESTTA system, on the date identified below.

Date: February 29, 2016 /Thomas D. Foster/
Thomas D. Foster, Esq.