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

Proceeding	91225901
Party	Defendant Gordon, Dan J, Gordon, Andrew J
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Date	02/26/2016
Attachments	Take the Stage Answer.pdf(172489 bytes)

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

Specialty Retailers, Inc.,)	
)	
Opposer,)	
)	Opposition No. 91225901
v.)	Serial No. 86665765
)	Mark: TAKE THE STAGE
Dan J. Gordon & Andrew J. Gordon,)	
)	
Applicants.)	

ANSWER TO NOTICE OF OPPOSITION

Dan J. Gordon and Andrew J. Gordon (“Applicant”), by their attorney, respond to the captioned Notice of Opposition as follows:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Notice of Opposition and therefore denies the same.
2. Applicant admits that 2033 Colquitt Street, Houston, Texas 77098 is a valid mailing address. Dan J. Gordon currently resides at 304 Welch #2, Houston, Texas 77006.
3. Applicant admits Paragraph 3 of the Notice of Opposition.
4. Applicant admits Paragraph 4 of the Notice of Opposition.
5. Applicant admits Paragraph 5 of the Notice of Opposition.
6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Notice of Opposition and therefore denies the same.
7. Applicant makes no answer to Paragraph 7 of the Notice of Opposition to the extent those allegations state legal conclusions rather than facts. Further, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7 and therefore denies the same.

8. Applicant admits Paragraph 8 of the Notice of Opposition.

9. Applicant makes no answer to Paragraph 9 of the Notice of Opposition to the extent those allegations state legal conclusions rather than facts. Applicant admits that according to the USPTO database, the USPTO issued registration No. 1525762 for the mark STAGE on February 21, 1989, and an agreement was entered into assigning the mark to Opposer on January 21, 1994.

10. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 of the Notice of Opposition and therefore denies the same.

11. Applicant admits Paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations of Paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations of Paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations of Paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations of Paragraph 15 of the Notice of Opposition.

16. Applicant makes no answer to Paragraph 16 of the Notice of Opposition to the extent those allegations state legal conclusions rather than facts. Applicant admits the Mark contains the word STAGE, as well as additional, distinguishing words.

17. Applicant makes no answer to Paragraph 17 of the Notice of Opposition to the extent those allegations state legal conclusions rather than facts. Further, Applicant denies the allegations of Paragraph 17. Applicant affirmatively alleges that there is no likelihood of confusion, mistake, or deception because, *inter alia*, the Mark and the alleged trademark of Opposer are not virtually identical or confusingly similar, especially considering their vastly different classifications. Any service mark rights that Opposer may have are narrowly prescribed to the services indicated, the service mark has not acquired any secondary meaning, and any other uses would not lead to a likelihood of confusion.

18. Applicant makes no answer to Paragraph 18 of the Notice of Opposition to the extent those allegations state legal conclusions rather than facts. Further, Applicant denies the allegations of Paragraph 18. Applicant affirmatively alleges that there is no likelihood of confusion, mistake, or deception because, *inter alia*, the average purchaser would not be confused as to the source of goods or services associated with the marks. Upon information and belief, Opposer mainly, if not completely, currently only sells third party Class 25 brands and/or other Class 25 brands that do not incorporate the “Stage” mark for the items listed in Applicant’s Class 25 Application. A search ran on Opposer’s website supports this belief. As a result, there is no likelihood of consumer confusion. Additionally, Applicant has no intention of providing retail store services similar to those provided by Opposer, so there can be no consumer confusion as to any source of services.

19. Applicant makes no answer to Paragraph 19 of the Notice of Opposition to the extent those allegations state legal conclusions rather than facts. Applicant admits the filing date of the Application is June 17, 2015. For all else, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 19.

20. Applicant makes no answer to Paragraph 20 of the Notice of Opposition to the extent those allegations state legal conclusions rather than facts. Further, Applicant denies the allegations of Paragraph 20.

21. Applicant denies the allegations of Paragraph 21 of the Notice of Opposition. Applicant affirmatively alleges that Opposer’s goodwill and reputation will not be jeopardized by registration of Applicant’s mark because Opposer’s mark is associated with retail clothing services for non-Stage related brands and Applicant’s mark is associated with a children’s non-profit entertainment series.

22. Applicant makes no answer to Paragraph 22 of the Notice of Opposition to the extent those allegations state legal conclusions rather than facts. Further, Applicant denies the allegations of Paragraph 22.

Applicant reserves the right to amend its Answer to add affirmative or other defenses that cannot now be articulated due to Opposer's failure to particularize its claims and/or the need for further discovery regarding Opposer's claims, including what Class 25 items, if any, it sells at its stores under its own Class 25 Stage brands.

WHEREFORE, Applicant prays that this Opposition be dismissed.

Respectfully Submitted,

/s/ Neel A. Choudhury
Neel A. Choudhury
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1307 O.C. Haley, Suite #303G
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ATTORNEY FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2016, the foregoing Answer to Notice of Opposition was served upon Opposer via United States Postal Service first class mail as follows:

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/s/ Neel A. Choudhury
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