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

Proceeding	91225912
Party	Defendant Polar Fusion LLC
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Attachments	Answer PF.pdf(102762 bytes )

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

Implus Footcare LLC,	)	
	)	Opposition No. 91225912
Opposer,	)	
	)	Serial No. 86/522780
v.	)	
	)	
Polar Fusion LLC,	)	
	)	
Applicant.	)	Attorney Docket No. 870169.804

**APPLICANT POLAR FUSION LLC’S  
ANSWER TO NOTICE OF OPPOSITION**

Applicant Polar Fusion LLC (“Polar Fusion” or “Applicant”), by and through its attorneys, hereby answers the Notice of Opposition filed by Opposer Implus Footcare LLC (“Implus” or “Opposer”) *ad seriatim*:

Polar Fusion admits it has filed a trademark application, serial no. 86/522780 which speaks for itself. Polar Fusion lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the opening paragraph of the Opposition, and on that basis denies them.

1. Polar Fusion admits it filed U.S. trademark application serial no. 86/522780, which speaks for itself.
2. Polar Fusion admits the allegations of paragraph 2.
3. Polar Fusion admits the allegations of paragraph 3.

4. Polar Fusion admits, upon information and belief, that Implus is a Delaware Limited Liability Company doing business at 2001 TW Alexander Drive, Box 13925, Durham, NC 27709.

5. U.S. Trademark Registration No. 3,712,930 speaks for itself. Polar Fusion lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 5 of the Opposition, and on that basis denies them.

6. U.S. Trademark Application Serial No. 86/566194 speaks for itself, although Polar Fusion believes this application has been rejected as merely descriptive. Polar Fusion lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 6 of the Opposition, and on that basis denies them.

7. Paragraph 7 is a summary statement and requires no response.

8. Polar Fusion lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of the Opposition, and on that basis denies them.

9. Polar Fusion lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 of the Opposition, and on that basis denies them.

10. Polar Fusion lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 of the Opposition, and on that basis denies them.

11. Polar Fusion denies the allegations of paragraph 11.

12. Polar Fusion denies the allegations of paragraph 12.

13. Polar Fusion denies the allegations of paragraph 13.

14. Polar Fusion denies the allegations of paragraph 14.

15. Polar Fusion denies the allegations of paragraph 15.

16. Polar Fusion admits the allegations of paragraph 16.

17. Polar Fusion denies the allegations of paragraph 17.

18. Polar Fusion denies the allegations of paragraph 18.

#### **AFFIRMATIVE DEFENSES**

1. On information and belief, Opposer's marks are merely descriptive for some or all of its claimed goods and services and have not obtained secondary meaning. Opposer's pending applications to register TRIGGERPOINT, Serial No. 86/566,194 and TRIGGERPOINT CORE ROLLER, Serial No. 86/795,758, have both been refused under section 2(e)(1) as merely descriptive. Opposer has not submitted a response as of the date of this Answer. Moreover, Applicant was required to disclaim TRIGGERPOINT from the application that is the subject of the present opposition.

#### **PRAYER FOR RELIEF**

WHEREFORE, Polar Fusion requests judgment:

1. Dismissing Opposer's Notice of Opposition and allowing Applicant's application to proceed to registration.

DATED this 26th day of February, 2016.

Seed IP Law Group PLLC

/Duncan Stark/

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**CERTIFICATE OF SERVICE**

I hereby certify that the above **APPLICANT POLAR FUSION LLC'S ANSWER TO NOTICE OF OPPOSITION** was served on Opposer's counsel by U.S. first class mail on February 26, 2016, addressed as follows:

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/Anne Calico / \_\_\_\_\_  
Anne Calico