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

Proceeding	91226255
Party	Defendant DownEast Outfitters, Inc.
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Date	03/02/2016
Attachments	Answer to Notice of Opposition.pdf(15382 bytes)

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

In the matter of Trademark Application Serial No.: 86/687227
For the Trademark: LIVE FOR PINK
Published in the Official Gazette on October 13, 2015

VICTORIA’S SECRET STORES
BRAND MANAGEMENT, INC.,

Opposer,

v.

Opposition No. 91226255

DOWNEAST OUTFITTERS, INC.,
a Utah corporation

Applicant.

ANSWER

COMES NOW Applicant DownEast Outfitters, Inc. (“DownEast”), by and through its counsel, Strong & Hanni, and asserts that Opposer Victoria’s Secret Stores Brand Management, Inc. (“Opposer”) will not be damaged by the registration of the mark LIVE FOR PINK shown in Application Serial No. 86/687227, and further, responds to Opposer’s Notice of Opposition (“Opposition”) in the above-captioned action as follows:

FIRST AFFIRMATIVE DEFENSE

Opposer’s Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

DownEast answers the individually numbered paragraphs of Opposer’s Opposition as follows:

1. DownEast denies each and every allegation contained in paragraph 1.

2. DownEast is without information sufficient to either admit or deny paragraph 2 of the Opposition and on that basis denies each and every allegation contained in paragraph 2.

3. DownEast is without information sufficient to either admit or deny paragraph 3 of the Opposition and on that basis denies each and every allegation contained in paragraph 3.

4. DownEast is without information sufficient to either admit or deny paragraph 4 of the Opposition and on that basis denies each and every allegation contained in paragraph 4.

5. DownEast is without information sufficient to either admit or deny paragraph 5 of the Opposition and on that basis denies each and every allegation contained in paragraph 5.

6. DownEast is without information sufficient to either admit or deny paragraph 6 of the Opposition and on that basis denies each and every allegation contained in paragraph 6.

7. DownEast denies each and every allegation contained in paragraph 7.

8. DownEast is without information sufficient to either admit or deny paragraph 8 of the Opposition and on that basis denies each and every allegation contained in paragraph 8.

9. DownEast admits the allegations contained in paragraph 9.

10. DownEast admits the allegations contained in paragraph 10.

11. DownEast admits the allegations contained in paragraph 11.

12. DownEast admits the allegations contained in paragraph 12.

13. DownEast denies each and every allegation contained in paragraph 13.

14. DownEast denies each and every allegation contained in paragraph 14.

15. DownEast denies each and every allegation contained in paragraph 15.

16. DownEast denies each and every allegation contained in paragraph 16.

THIRD AFFIRMATIVE DEFENSE

DownEast denies each and every allegation set forth in the Opposition not expressly admitted herein.

FOURTH AFFIRMATIVE DEFENSE

Opposer's claims against DownEast are barred by the applicable statute of limitations and/or the doctrines of laches, estoppel, and/or waiver.

FIFTH AFFIRMATIVE DEFENSE

Opposer does not use the marks listed in the Opposition in connection with goods and/or services.

SIXTH AFFIRMATIVE DEFENSE

Opposer's marks and DownEast's LIVE FOR PINK mark are in no way confusingly similar as is evident by the Trademark Office's approval of Applicant's mark for publication.

SEVENTH AFFIRMATIVE DEFENSE

Opposer's marks using the word PINK are not famous.

EIGHTH AFFIRMATIVE DEFENSE

Consumers do not associate the words LIVE FOR PINK with Opposer or Opposer's goods.

NINTH AFFIRMATIVE DEFENSE

DownEast's LIVE FOR PINK mark does not create the impression that its goods are licensed, sponsored or approved by Opposer.

TENTH AFFIRMATIVE DEFENSE

Consumers are not likely to be confused by DownEast's LIVE FOR PINK mark and Opposer's marks using the word PINK.

ELEVENTH AFFIRMATIVE DEFENSE

DownEast does not market, advertise or promote its goods bearing the LIVE FOR PINK mark through the identical or similar channels of trade as used by Opposer to market, advertise or promote its goods.

TWELFTH AFFIRMATIVE DEFENSE

DownEast does not market, advertise or promote its goods bearing the LIVE FOR PINK mark to the same type of consumers that purchase Opposer's goods using the word PINK.

THIRTEENTH AFFIRMATIVE DEFENSE

There is no actual confusion in the minds of consumers between DownEast's LIVE FOR PINK mark and Opposer's marks containing the word PINK.

FOURTEENTH AFFIRMATIVE DEFENSE

There is no likelihood of confusion between DownEast's LIVE FOR PINK mark and Opposer's marks containing the word PINK.

FIFTEENTH AFFIRMATIVE DEFENSE

Opposer has suffered no harm and will suffer no harm from DownEast's LIVE FOR PINK mark.

SIXTEENTH AFFIRMATIVE DEFENSE

There is no likelihood of confusion between DownEast's LIVE FOR PINK mark and Opposer's marks due to difference in appearance and type of goods sold in connection with the marks.

WHEREFORE, having fully responded to the allegations set forth in the Opposition, DownEast prays for judgment against Opposer and for an order that the Opposition be dismissed

in its entirety with prejudice and that its Application be allowed to mature for registration; and for such other further relief as is just and proper as determined by the Board.

Date: March 2, 2016.

Respectfully submitted,
DownEast Outfitters, Inc.

/Casey W. Jones/
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CERTIFICATE OF MAILING AND SERVICE

I certify that on March 2, 2016, the foregoing ANSWER is being electronically transmitted through the ESTTA system to:

Trademark Trial and Appeal Board
Alexandria, VA 22313

It is further certified that on March 2, 2016, the foregoing ANSWER is being served by mailing a copy thereof by first-class mail addressed to:

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