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Filing date: **04/04/2016**

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

Proceeding	91226475
Party	Defendant Xelios Biometrics, Inc
Correspondence Address	DANIEL C. MAROTTA GABOR & MAROTTA LLC 1878 VICTORY BOULEVARD STATEN ISLAND, NY 10314  dan@gabormarottalaw.com;ilyssa@gabormar
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Date	04/04/2016
Attachments	DOC604.pdf(119290 bytes )

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

-----x Opposition No. \_\_\_\_\_  
Lifetouch Inc.,

Opposer,

Mark: MY LIFE TOUCH  
Serial No.: 86/428976

v.

Mark: LIFE TOUCH  
Serial No.: 86/428985

Xelios Biometrics, Inc.,  
Applicant.

Filing Date: October 20, 2014  
Publication Date: December 15, 2015

-----x

**ANSWER TO NOTICE OF OPPOSITION**

NOW COMES the Applicant Xelios Biometrics, Inc. and answers the Notice of Opposition in the above-captioned proceeding as follows:

1. Admits the allegations of paragraph 1 of the Notice of Opposition.
2. Admits the allegations of paragraph 2 of the Notice of Opposition.
3. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 3 of the Notice of Opposition and accordingly denies the allegations.
4. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 4 of the Notice of Opposition and accordingly denies the allegations.
5. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 5 of the Notice of Opposition and respectfully refers the TTAB to the USPTO.

6. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 5 of the Notice of Opposition and respectfully refers the TTAB to the USPTO.
7. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 5 of the Notice of Opposition and respectfully refers all questions of law and fact to the TTAB.
8. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 8 of the Notice of Opposition and accordingly denies the allegations.
9. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 9 of the Notice of Opposition and accordingly denies the allegations.
10. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 10 of the Notice of Opposition and accordingly denies the allegations.
11. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 11 of the Notice of Opposition and accordingly denies the allegations.
12. Applicant denies the allegations contained in paragraph 12 of the Notice of Opposition.
13. Applicant denies the allegations contained in paragraph 13 of the Notice of Opposition.
14. Applicant denies the allegations contained in paragraph 14 of the Notice of Opposition.
15. Applicant denies the allegations contained in paragraph 15 of the Notice of Opposition.
16. Applicant denies the allegations contained in paragraph 16 of the Notice of Opposition.

17. Applicant denies the allegations contained in paragraph 17 of the Notice of Opposition.
18. Applicant denies the allegations contained in paragraph 18 of the Notice of Opposition.
19. Applicant denies the allegations contained in paragraph 19 of the Notice of Opposition.
20. Applicant denies the allegations contained in paragraph 20 of the Notice of Opposition.
21. Applicant denies the allegations contained in paragraph 21 of the Notice of Opposition.
22. Applicant denies the allegations contained in paragraph 22 of the Notice of Opposition.

### **AFFIRMATIVE DEFENSES**

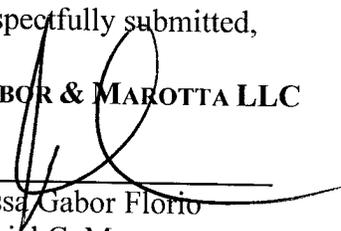
23. Opposer does not have a registration for “My Life Touch.”
24. Opposer does not have any registration in class “044,” which is the class in which Applicant seeks registration.
25. Opposer provides photography/portrait services for students and children, while Applicant performs medical services in the form of high tech biometric technology, ie finger print sensors.
26. There is no likelihood of confusion, mistake or deception because Applicant’s mark, when applied to Applicant’s goods and services, and Opposer’s mark, when applied to Opposer’s goods and services, are not confusingly similar.
27. Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves the right to amend this Answer to assert any such defenses.
28. Opposer’s claims are barred, in whole or in part, by the doctrines of laches and unclean hands.

WHEREFORE, Applicant prays that the instant Opposition be dismissed by the Trademark Trial and Appeal Board, and that the Trademark Trial and Appeal Board grant Applicant all other such relief as it may be entitled.

Dated: Staten Island, New York  
April 4, 2016

Respectfully submitted,

**GABOR & MAROTTA LLC**



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