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

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|---|---|
| Proceeding | 91226873 |
| Party | Defendant<br>Drink Up LLC |
| Correspondence Address | ANDREW A GONZALEZ<br>GONZALEZ & OBERLANDER LLP<br>445 HAMILTON AVE STE 1102<br>WHITE PLAINS, NY 10601-1832<br>UNITED STATES |
| Submission | Answer |
| Filer's Name | Andrew A Gonzalez |
| Filer's e-mail | gonzalez@golawny.com |
| Signature | /aag/ |
| Date | 04/19/2016 |
| Attachments | Answer to Opposition.pdf(71087 bytes ) |

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

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The Wonderful Company LLC

Opposer,

v.

Drink Up LLC

Applicant.

**Opposition No. 91226873**
**Serial No. 86622167**
**Mark: WONDERWELL**

**ANSWER**

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Applicant Drink Up LLC, hereby responds to the Opposition of The Wonderful Company LLC.

Applicant denies the allegations of the first unnumbered paragraph, namely that Opposer will be damaged by the registration of the trademark WONDERWELL by Applicant.

1. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

2. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

3. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

4. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

5. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

6. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

7. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

8. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

## COUNT I – LIKELIHOOD OF CONFUSION

9. Applicant restates its responses to paragraphs 1 through 8.

10. Denied as stated. Applicant further denies that its mark violates Section 2(d) of the Lanham Act and/or that it conveys the same commercial impression as Opposer's marks.

11. Denied as stated. Applicant further denies that its goods are identical or similar to the goods offered by Opposer or that the use of the mark is likely to cause confusion among the relevant public.

12. Denied as stated. Applicant further denies that use of its mark is likely to create the erroneous impression that its goods are affiliated with or connected to Opposer or that Applicant's business is affiliated with Opposer's business.

13. Denied as stated. Applicant further denies that Applicant's mark will cause Opposer injury or that it will harm the reputation of Opposer's mark.

## COUNT II - DILUTION

14. Applicant restates its responses to paragraphs 1 through 13.

15. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

16. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

17. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

18. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

19. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

20. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

21. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

22. Applicant lacks knowledge and information sufficient to form a belief with respect to the truth of the allegations.

23. Denied as stated. Applicant further denies that use and registration of its mark will dilute Opposer's marks.

**FIRST AFFIRMATIVE DEFENSE**
**(Failure to State a Cause of Action)**

24. As a separate and affirmative defense to the Notice of Opposition, and to each alleged cause of action contained therein, Applicant alleges that the Notice of Opposition and each and every cause of action fails to set forth facts sufficient to state a claim against Applicant.

**SECOND AFFIRMATIVE DEFENSE**
**(Estoppel)**

25. As a further and separate affirmative defense to the Notice of Opposition, and to each and every alleged cause of action contained therein, Applicant alleges that Opposer is estopped and barred from obtaining the relief requested therein.

WHEREFORE, Applicant requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant Applicant's application.

Respectfully submitted,

Drink Up LLC

Dated: April 19, 2016

By: _____

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CERTIFICATE OF SERVICE

I, Roberto Velez, hereby certify that a true and complete copy of the foregoing Answer has been served on Darya P. Laufer, Esq. by mailing said copy on April 19, 2016, via First Class Mail, postage prepaid to:

Darya P. Laufer, Esq.
Intellectual Property Counsel
Roll Law Group P.C.
11444 West Olympic Blvd., 7th Floor
Los Angeles, CA 90064

Roberto Velez