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

Proceeding	91227365
Party	Defendant One Wish, L.L.C.
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Date	07/28/2016
Attachments	Audimute Answer to Opposition 91227365.pdf(188148 bytes )

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

In the Matter of  
Trademark Serial No.: 86643460  
Trademark: **SONISHAPES**  
Published in the Official Gazette: October 20, 2015

SONY CORPORATION	)	
	)	
	)	
Opposer,	)	
	)	Opposition No.: 91227365
v.	)	
	)	<u>ANSWER OF APPLICANT TO</u>
	)	<u>NOTICE OF OPPOSITION</u>
	)	
ONE WISH, LLC	)	
	)	
Applicant.	)	

ONE WISH, LLC (“Applicant”), an Ohio limited liability company having an address at 34565 Seminole Way Solon, OH 44139 hereby submits its answer to the Notice of Opposition filed by SONY CORPORATION (“Opposer”) on April 14, 2016. For its answer, Applicant states:

1. Applicant admits the allegations in paragraph 1 of the Notice of Opposition.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Notice of Opposition and, therefore, denies those allegations.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Notice of Opposition and, therefore, denies those allegations.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Notice of Opposition and, therefore, denies those allegations.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Notice of Opposition and, therefore, denies those allegations.

6. Applicant is without 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 those allegations.

7. Applicant admits that the alleged first use dates of Opposer's marks, set forth in paragraph 7 of the Notice of Opposition, are as stated. To the extent the allegations in paragraph 7 of the Notice of Opposition state a conclusion of law, no response by Applicant is required. Applicant denies any remaining allegations in paragraph 7 of the Notice of Opposition.

8. Applicant admits that the alleged first use dates of Opposer's marks, set forth in paragraph 8 of the Notice of Opposition, are as stated. To the extent the allegations in paragraph 8 of the Notice of Opposition state a conclusion of law, no response by Applicant is required. Applicant denies any remaining allegations in paragraph 8 of the Notice of Opposition.

9. Applicant admits that the alleged first use dates of Opposer's marks, set forth in paragraph 9 of the Notice of Opposition, are as stated. To the extent the allegations in paragraph 9 of the

Notice of Opposition state a conclusion of law, no response by Applicant is required. Applicant denies any remaining allegations in paragraph 9 of the Notice of Opposition.

10. Applicant admits that the alleged first use dates of Opposer's marks, set forth in paragraph 10 of the Notice of Opposition, are as stated. To the extent the allegations in paragraph 10 of the Notice of Opposition state a conclusion of law, no response by Applicant is required. Applicant denies any remaining allegations in paragraph 10 of the Notice of Opposition.

11. Applicant admits that the alleged first use dates of Opposer's marks, set forth in paragraph 11 of the Notice of Opposition, are as stated. To the extent the allegations in paragraph 11 of the Notice of Opposition state a conclusion of law, no response by Applicant is required. Applicant denies any remaining allegations in paragraph 11 of the Notice of Opposition.

12. Applicant admits that the alleged first use dates of Opposer's marks, set forth in paragraph 12 of the Notice of Opposition, are as stated. To the extent the allegations in paragraph 12 of the Notice of Opposition state a conclusion of law, no response by Applicant is required. Applicant denies any remaining allegations in paragraph 12 of the Notice of Opposition.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 of the Notice of Opposition and, therefore, denies those allegations.

14. Applicant admits that Opposer uses the SONY mark in connection with other words, such as SONY CARD, SONY CLASSICAL, SONY INTERACTIVE ENTERTAINMENT (formerly SONY COMPUTER ENTERTAINMENT), SONY MUSIC, SONY PICTURES, SONY FINANCIAL SERVICES, SONY STYLE, SONY TABLET, and SONY WONDER. Applicant is without knowledge or information sufficient to form a belief as to the truth of the

remaining allegations of paragraph 14 of the Notice of Opposition and, therefore, denies those allegations.

15. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Notice of Opposition and, therefore, denies those allegations.

16. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the Notice of Opposition and, therefore, denies those allegations.

17. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Notice of Opposition and, therefore, denies those allegations.

18. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 of the Notice of Opposition and, therefore, denies those allegations.

19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 of the Notice of Opposition and, therefore, denies those allegations.

20. Applicant admits the allegations in paragraph 20 of the Notice of Opposition.

21. Applicant admits the allegations in paragraph 21 of the Notice of Opposition.

22. Applicant admits that Opposer has established rights in the SONY Marks prior to any date on which Applicant can rely on for use of its mark SONISHAPES in connection with the goods and services listed in the '460 Application, as stated. To the extent the allegations in paragraph

22 of the Notice of Opposition state a conclusion of law, no response by Applicant is required.

Applicant denies any remaining allegations in paragraph 22 of the Notice of Opposition.

23. Applicant is without knowledge or information sufficient to form a belief as to Opposer's knowledge. Applicant denies that Opposer had an adoption of SONISHAPES.

24. Applicant denies the allegations in paragraph 24 of the Notice of Opposition.

25. Applicant denies the allegations in paragraph 25 of the Notice of Opposition.

### **ANSWER TO COUNT I**

26. Applicant restates and incorporates by reference its answers, denials and averments set forth in paragraphs 1 to 25 of its Answer as if fully rewritten herein.

27. Applicant denies the allegations in paragraph 27 of the Notice of Opposition.

28. Applicant denies the allegations in paragraph 28 of the Notice of Opposition.

29. Applicant denies the allegations in paragraph 29 of the Notice of Opposition.

30. Applicant denies the allegations in paragraph 30 of the Notice of Opposition.

### **ANSWER TO COUNT II**

31. Applicant restates and incorporates by reference its answers, denials and averments set forth in paragraphs 1 to 30 of its Answer as if fully rewritten herein.

32. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32 of the Notice of Opposition and, therefore, denies those allegations.

33. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33 of the Notice of Opposition and, therefore, denies those allegations.

34. Applicant denies the allegations in paragraph 34 of the Notice of Opposition.

35. Applicant denies the allegations in paragraph 35 of the Notice of Opposition.

36. Applicant denies the allegations in paragraph 36 of the Notice of Opposition.

37. Applicant denies any and all allegations not specifically admitted in the paragraphs above and further denies that the opposition should be sustained.

### **DEFENSES**

#### First Defense

38. Opposer fails to state legally sufficient grounds in its Notice of Opposition for sustaining the opposition.

#### Second Defense

39. Opposer has not and will not be damaged by the pending Registration and therefore lacks standing to petition to cancel the registration.

#### Third Defense

40. Applicant's mark is sufficiently different from Opposer's marks, goods, and services as described in the Notice of Opposition so as to avoid any likelihood of confusion with respect to Opposer's marks and goods.

Fourth Defense

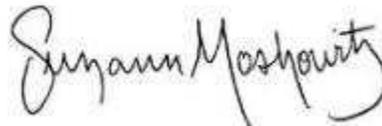
42. Opposer's Notice of Opposition is barred, either in whole or in part, by the doctrines of equity, estoppel, laches, and waiver.

Fifth Defense

43. Applicant expressly reserves the right to add to, modify, or amend its Answer and defenses to rely upon other facts or defenses that may become available or appear during, or as a result of, further investigation or discovery.

WHEREFORE, Applicant ONE WISH, LLC, prays that the Notice of Opposition be dismissed with prejudice.

Respectfully submitted,

A handwritten signature in black ink that reads "Suzann Moskowitz". The signature is written in a cursive, flowing style.

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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office through ESTTA on July 28, 2016



by: \_\_\_\_\_  
Suzann Moskowitz

**CERTIFICATE OF SERVICE**

I hereby certify that on July 28, 2016, a true and correct copy of the foregoing Notice of Appearance was served on Opposer by emailing a copy to Gina M. McCreddie at [gmccreadie@nixonpeabody.com](mailto:gmccreadie@nixonpeabody.com), and [was.managing.clerk@nixonpeabody.com](mailto:was.managing.clerk@nixonpeabody.com)



by: \_\_\_\_\_  
Suzann Moskowitz