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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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DISNEY ENTERPRISES, INC.,	|	Opposition No: 91228195
Opposer	|	Mark: MULAN V BEAUTY
v.	|	Serial No.: 86683349
FREESTYLE RECORDS INC.,	|	
Applicant.	|	

ANSWER

Applicant generally denies each and every allegation set forth by Opposer in its Opposition.

THERE IS NO LIKELIHOOD OF CONFUSION

1. Applicant has applied for Trademark Registration for its mark "MULAN V BEAUTY" ("Mark") in Class 3: Cosmetics; body and beauty care cosmetics.
2. The core business of Applicant's Mark is hair weaves, hair extensions, hair clip-ins and beauty tutorial (with ancillary product lines in lipsticks and lip glosses).
3. The primary demographic and core customer base of Applicant's Mark is adult women ages 18 to 60 in urban communities. This can be verified by viewing Applicant's website: **www.mulanvbeauty.com** where the images/demographics, product lines, and video beauty tutorials clearly show that there is no conflict between the Applicant's and Opposer's marks/customer bases.

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4. Opposer has never registered or applied for registration in Class 3 for its mark "MULAN" ("Disney Mark"), which is based on an Asian cartoon character from a Disney movie targeted at children originally released nearly 20 years ago. The Disney Mark has only been registered way back in 2000 in the following specific categories: Class 9 (music), Class 28 (toys), and Class 16 (books). Clearly, the focus of Opposer's product lines over the years and today are film and TV related goods like videos, videogames and cartoon dolls (not cosmetics - or surely it would have also registered in that category to preserve its rights/brand).
5. Opposer has offered no proof or evidence of any consumer confusion or damage. It merely states in it Opposition that there is a "belief" of same. A vague and ambiguous belief is not a valid basis to prevent Applicant from doing business/making a living.
6. Applicant's customers primarily are adults who are sophisticated enough to know the difference between a high end adult hair and beauty line for an urban demographic versus that of a children's themed/targeted cartoon product released over 20 years ago, and Applicant has not received any comments or queries from consumers to the contrary (because Applicant operates in a different market/lane than does Opposer). Clearly, if Opposer had any solid evidence of consumer confusion or actual damages it would have attached that evidence to its Oppostion.
7. There is no intent to deceive. For Applicant's business and customer demographic, there is no value or benefit to try and palm-off or piggy-back on the Disney Mark as its customers would never make that connection – nor would they even care (and it would be a turn-off).

THE MARKS ARE DISSIMILAR

8. MULAN and MULAN V BEAUTY are two completely different names. Applicant's Mark has "V Beauty" as part of its name which makes it much different/distinctive, especially with relation to online searches and search results.
9. When Applicant applied for the Mark it received an official notice back from the Trademark Office that: "The trademark examining attorney has searched the USPTO's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d)."
10. Although Opposer makes a claim of common law trademark because it has sold in the past some consumer products online at Amazon under the name: "Disney Dare To Dream Mulan (make-up)…", the use of the Disney Mark is buried deep in the product title.

RESTRICTED GOODS IDENTIFICATION ALLOWABLE

11. Even if the Board disagrees with Applicant's Answer and ultimately finds that Opposer is entitled to judgment with respect to applicant's goods as broadly identified, Applicant should still be entitled to a registration of its Mark with a restricted identification reflecting the actual nature of its goods, or be allowed to amend its Application accordingly.

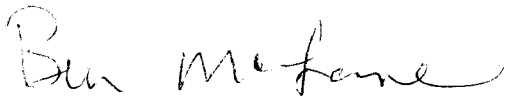
ORDER REQUEST

12. Based on the foregoing, Applicant can see no legitimate reason or legal basis for Opposer's claim asserting confusion, and it should not be allowed to extend its franchise

so broadly to stop Applicant (or anyone else) from making a living in areas that have no conflict. The Board should not allow Opposer to squat in random Classes and claim rights so broadly. That is a Restraint of Trade violation and should not be sanctioned by this Board. Hence, the Opposition should be denied and the Application of the Mark be granted.

[No known filing fee required for this Answer]

Respectfully Submitted: Dated: 7/3/2016



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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the forgoing ANSWER was served by first class mail, postage prepaid, on 7/3/2016, upon Opposer's Counsel of record at the following correspondence address of record:

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