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

Proceeding	91228195
Party	Defendant Freestyle Records Inc
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Date	08/14/2016
Attachments	ApplicantsOppositiontoMotiontoStrikeAnswer.pdf(1657437 bytes)

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

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

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**APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO STRIKE ANSWER &
ENTER DEFAULT JUDGMENT**

Pursuant to the applicable Trademark Trial and Appeal Board Manual of Procedure and Federal Rules of Civil Procedure, Applicant hereby opposes/objects to Opposer’s Motion to Strike Answer & Enter Default Judgment (“Motion to Strike”) on the following legal and equitable grounds:

1. For the purposes of this Opposition, Applicant incorporates and re-states by reference its Answer to the Notice of Opposition in this matter originally filed on 7/3/16 (“Answer”).

2. The Answer is proper and adequately complied in good faith with Trademark Rule § 2.106(a) and Rule 8(b)(3) of the Federal Rules of Civil Procedure which provide for the following:

Trademark Rule § 2.106(a):

“...An [A]nswer shall state in short and plain terms the applicant’s defenses to each claim asserted and shall admit or deny the averments upon which the opposer relies... Denials may take any of the forms specified in Rule 8(b) of the Federal Rules of Civil Procedure. An [A]nswer may contain any defense, including the affirmative defenses of unclean hands, laches, estoppel, acquiescence, fraud, mistake, prior judgment, or any other matter constituting an avoidance or affirmative defense.”

Rule 8(b)(3) of the Federal Rules of Civil Procedure:

“General and Specific Denials. A party that intends in good faith to deny all the allegations of a pleading...may do so by a general denial.”

3. Applicant was forced to file an Answer due to Opposer’s Notice of Opposition “(Mark Opposition”)), and had no choice but to object to the merits of Opposer’s claims across the board in its Answer because it in good faith disagrees, and thus has the legal right to say so and state its case the best way it knows how.

4. The Answer laid out all of the good faith reasons and the truth as to why the Trademark Trial and Appeal Board (“Board”) should deny the Mark Opposition - and instead order that the Application of the Mark be granted.

5. A general denial in the Answer was proper because Applicant does deny the Mark Opposition and its assertions in their entirety as without merit.
6. In its Motion to Strike, Opposer is in bad faith trying to obfuscate the truth of the matter at hand by using red herring procedural tactics/arguments (which are hereby objected as without merit/incorrect) as a basis to have the Board strike the Answer and enter a default in Opposer's favor – instead of having the Board focus on the facts as it should for such an important and life and career altering decision. The Board should review all of the assertions in the Answer on their face and make any decisions based on that – not procedural arguments.
7. The case attached as Exhibit A to the Motion to Strike (Grupo v. Marti's) is not a binding precedent for the unique fact situation and related pleadings before the Board, and should not be evaluated as such in any decision making.
8. To the extent that any of the language in the Answer should be construed as an affirmation defense, then Applicant asks that the Board please do so.

ORDER REQUEST

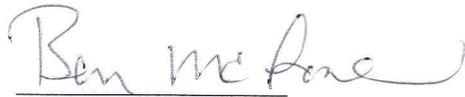
Based on the foregoing, the Motion to Strike should be denied, and Applicant's Answer should not be stricken in whole or in part, and default judgment should not be granted Opposer.

Further, the Board should not issue an order deeming all or any allegations in the Notice of Opposition admitted. Instead the Application of the Mark should be granted.

[No known filing fee required for this Opposition]

Respectfully Submitted:

Dated: 8/14/2016

A handwritten signature in cursive script that reads "Ben McLane". The signature is written in dark ink and is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the forgoing APPLICANT'S OPPOSITION TO OPPOSER'S MOTION TO STRIKE ANSWER & ENTER DEFAULT JUDGMENT was served by first class mail, postage prepaid, on 8/14/2016, upon Opposer's Counsel of record at the following correspondence address of record:

Linda McLeod, Esq

Jason Joyal, Esq

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A handwritten signature in cursive script that reads "Ben McLane". The signature is written in black ink and is positioned above a horizontal line.

Ben McLane Esq

Attorney for Applicant