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

Proceeding	91230286
Party	Defendant Planet Source
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Submission	Answer
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Date	10/20/2016
Attachments	Answer 0286this.pdf(123184 bytes)

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

THRESHOLD ENTERPRISES LTD.

Opposer

Opposition No: 91230286
Mark: PLANET SOURCE
Serial No: 86424572
Filed: September 26, 2016

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PLANET SOURCE

Applicant

ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW, Applicant, by and through undersigned counsel, and files its Answer and Affirmative Defenses and in support hereof states:

1. Applicant Admits the allegations contained in Paragraphs 2, 3 (to the extent that Opposer has a registration for SOURCE NATURALS), 5 (to the extent that Opposer has a registration for SOURCE NATURALS), and 7 (to the extent it has a registration for SOURCE)
2. Applicant Denies the allegations contained in Paragraphs 9 and 10.
3. Applicant is without sufficient knowledge to admit or deny the allegations contained in Paragraphs 1, 4 (as to whether it is a “prominent” brand), 6 (as to whether it is a “prominent” brand), and 8.

AFFIRMATIVE DEFENSES

4. Opposer’s marks are merely descriptive.
5. Opposer’s marks are not famous, well-known or prominent.
6. Opposer’s weak marks are entitled to a limited scope of protection.

7. Opposer's have not acquired secondary meaning in the marks.
8. Opposer and Applicant can peacefully coexist without confusion, and have been doing so.
15. Opposer cannot claim to have control of the use of the word "SOURCE" in connection with vitamins and supplements.
16. Opposer's marks is distinguishable from Applicant's marks and is unlikely to be confused with Applicant's mark.
17. Opposer has acquiesced to the use of Applicant's marks for over three (3) years.
18. Opposer is barred by laches in bringing this opposition.
19. There are numerous other SOURCE-formative marks peacefully co-existing in the industry.
20. Opposer does not consistently use indications to show the public that its marks are registered trademarks or otherwise source indicators.
21. The connotations and overall visual and phonetic effect of Opposer's marks and Applicant's are completely different and are unlikely to cause confusion.
22. Opposer has failed to adequately police it's marks in the market and has failed to oppose marks much more likely to cause confusion.

WHEREFORE, Applicant requests that the subject opposition be dismissed together with such further relief is equitable.

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ELECTRONIC MAILING CERTIFICATE

I hereby certify that the foregoing Motion is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board (“ESTTA”) and by mail and email to Arnold & Porter LLP, 3 Embarcadero Ctr. 10th Floor, San Francisco, CA 94111, trademarkdocketing@aporter.com, erica.connolly@aporter.com, monty.agarwal@aporter.com, bryan.gresham@aporter.com on this 20th day of October, 2016.

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