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

Proceeding	91245233
Party	Defendant Just Breast, LLC
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Date	01/22/2019
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TAYLOR MADE POLISH, LLC & Taylor Made Cosmetics LLC	)	
	)	
Opposers,	)	Opposition No. 91245233
	)	
v.	)	<i>In the matter of:</i>
	)	
Just Breast, LLC	)	Application Serial No. 87/703,511
	)	Published on November 13, 2018
Applicant.	)	
	)	
	)	
	)	

Mark: TAYLOR MADE COSMETICS

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Just Breast, LLC, a Georgia limited liability company with offices at 1364 Wellbrook Circle NE, Conyers, Georgia, rejects Opposer’s assertions that registration of Applicant’s TAYLOR MADE COSMETICS mark would damage Opposer’s alleged common law rights in the TAYLOR MADE POLISH, TAYLOR MADE COSMETICS, and TAYLOR MADE marks (hereinafter referred to as “Opposer’s marks”). Opposer is not the prior user of the TAYLOR MADE COSMETICS mark or the TAYLOR MADE mark. There is no trademark use of Opposer’s marks, and, if trademark use is established, likelihood of confusion is prevented by the differences in the marks, goods and services, and channels of trade. Further, if trademark rights are found to be held in any of the Opposer’s marks, the trademark rights should be restricted to the geographic location of Easton, Pennsylvania.

Applicant’ answers the Notice of Opposition below and alleges:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1, and therefore denies the same, demanding strict proof thereof.
2. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2, and therefore denies the same, demanding strict proof thereof.
3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3, and therefore denies the same, demanding strict proof thereof.
4. In response to allegations contained in Paragraph 4, Applicant denies that Applicant filed an application to register the TAYLOR MADE COSMETICS mark on November 30, 2018 and denies any other allegations contained in Paragraph 4 that are inconsistent with U.S. Application Serial No. 87/703,511.
5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5, and therefore denies the same.
6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6, and therefore denies the same, demanding strict proof thereof.
7. Applicant denies the allegations contained in paragraph 7.
8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8, and therefore denies the same, demanding strict proof thereof.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9, and therefore denies the same, demanding strict proof thereof.
10. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10, and therefore denies the same, demanding strict proof thereof.
11. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11, and therefore denies the same, demanding strict proof thereof.
12. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12, and therefore denies the same, demanding strict proof thereof.
13. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 and therefore denies the same, demanding strict proof thereof.
14. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14, and therefore denies the same, demanding strict proof thereof.
15. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15, and therefore denies the same, demanding strict proof thereof.

16. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16, and therefore denies the same, demanding strict proof thereof.
17. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17, and therefore denies the same, demanding strict proof thereof.
18. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18, and therefore denies the same, demanding strict proof thereof.
19. Applicant admits the allegations contained in Paragraph 19.
20. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20, and therefore denies the same, demanding strict proof thereof.
21. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21, and therefore denies the same, demanding strict proof thereof.
22. Each and every allegation in the Notice of Opposition not specifically admitted herein is hereby denied.

#### AFFIRMATIVE DEFENSES

As for separate affirmative defenses, Applicant alleges the defenses set forth below. Applicant reserves the right to amend these, raise additional affirmative defenses, or file counterclaims based on information obtained in and through discovery. Characterizing the

defenses below as “Affirmative Defenses” does not shift the burden of proof to Just Breast, LLC with respect to any issues for which Opposer carries the burden of proof.

23. Opposer has no standing to bring forth the Opposition and has not established common law rights in TAYLOR MADE POLISH, TAYLOR MADE COSMETICS or TAYLOR MADE.
24. The Notice of Opposition fails to state a claim for which relief may be granted.
25. Opposer’s marks do not have priority over or rights superior to Applicant’s U.S. Application Serial No. 87/703,511 for the TAYLOR MADE COSMETICS mark used in connection with goods in Class 003, or Applicant’s common law rights in TAYLOR MADE COSMETICS and TAYLOR MADE.
26. There is no trademark use of Opposer’s marks in connection with the goods and services set forth in the Notice of Opposition.
27. Opposer is not entitled to any of the requested relief concerning its TAYLOR MADE POLISH mark as there is no likelihood of confusion, mistake or deception because *inter alia*, Applicant’s TAYLOR MADE COSMETICS mark is not confusingly similar in appearance, the marks are used in connection with vastly different goods and services, sold through different trade channels and create totally different commercial impressions when used on or in connection with their respective goods and services.
28. Opposer is not entitled to any of the requested relief concerning its TAYLOR MADE COSMETICS mark as there is no likelihood of confusion, mistake or deception because *inter alia*, Applicant’s TAYLOR MADE

COSMETICS mark is used in connection with vastly different goods and services, the marks are sold through different trade channels and create totally different commercial impressions when used on in connection with the respective goods and services.

29. Opposer is not entitled to any of the requested relief concerning its TAYLOR MADE mark as there is no likelihood of confusion, mistake or deception because *inter alia*, Applicant's TAYLOR MADE COSMETICS mark is not confusingly similar in appearance, the marks are used in connection with vastly different goods and services, sold through different trade channels and create totally different commercial impressions when used on in connection with their respective goods and services.

30. Applicant's TAYLOR MADE COSMETICS mark will not be used in connection with goods and services that are likely to be confused with Opposer's alleged TAYLOR MADE POLISH mark. Applicant's goods "Body and beauty care cosmetics; cosmetics containing botanical ingredients; cosmetics containing oils extracted from botanical ingredients; cosmetics containing naturally-derived ingredients; cosmetics containing oils extracted from naturally-derived ingredients; makeup; cosmetic preparations for skin care; non-medicated skin care preparations; non-medicated beard care preparation in the nature of beard masks, namely, lotions for beards; body lotion; skin lotion; non-medicated underarm skin balm; deodorant for personal use; soap; body powder; non-medicated foot powder; body spray, namely, body spray used as a personal deodorant and as fragrance; shaving soap; exfoliating scrubs, namely, non-medicated body scrubs;

non-medicated skincare preparation in the nature of exfoliating creams; non-medicated body mist; skin cream; skin gels, namely, skin moisturizing gel; skin masks; facial masks; aftershave; skin toners; skin conditioners; skin and body topical lotions and creams for cosmetic use” are not similar in nature to Opposer’s “customized nail polishes and retail store services.”

31. Applicant’s TAYLOR MADE COSMETICS mark will not be used in connection with goods and services that are likely to be confused with Opposer’s alleged TAYLOR MADE COSMETICS mark. Applicant’s aforementioned goods are dissimilar to “customized nail polishes and bespoke events relating to cosmetics, including, but not limited to, swag suites, hen parties, and showers” used in connection with Opposer’s TAYLOR MADE COSMETICS mark.

32. Applicant’s TAYLOR MADE COSMETICS mark will not be used in connection with goods and services that are likely to be confused with Opposer’s alleged TAYLOR MADE mark.

33. Opposer is not entitled to any of the requested relief because use of Applicant's mark is not likely, when used on or in connection with the goods and services of the Applicant, to cause the public to be confused or mistakenly believe that the products provided by Applicant are associated with, endorsed or sponsored by Opposer, or to cause injury or damage to Opposer's reputation and goodwill.

The clientele and consumers of Applicant’s goods offered in connection with the TAYLOR MADE COSMETICS mark are vastly different from those seeking to host or be in attendance of swag suites, hen parties and showers. The



likelihood of confusion between the alleged marks is diminished by the difference in goods and services.

WHEREFORE, Applicant respectfully prays that the Trademark Trial and Appeal Board deny the Opposition and permit registration of Applicant's TAYLOR MADE COSMETICS mark under U.S. Application Serial No. 87/703,511. The official fee is submitted herewith.

Dated: January 22, 2019

Respectfully submitted,

AMIN, TUROCY & WATSON, LLP

/Deidra D. Ritcherson/

Deidra Ritcherson

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ATTORNEY FOR APPLICANT

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Mark: TAYLOR MADE COSMETICS

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and complete copy of the foregoing Answer and Affirmative Defenses have been served on Rebeccah Gan and Wenderoth LLP by email to wlp@wenderoth.com, rgan@wenderoth.com and mailing said copy on \_\_\_\_\_ via USPS First Class Mail, postage prepaid to Rebeccah Gan and Wenderoth LLP, 1030 15th Street, NW, Suite 400 East, Washington, DC 20005.

Signature \_\_\_\_\_  
Deidra D. Ritcherson

Date \_\_\_\_\_