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

Proceeding	91166822
Party	Defendant Brinkley, Monty Brinkley, Monty 204 Awendaw Circle Ellenwood, GA 30294
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Submission	Answer
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Date	11/15/2005
Attachments	Monkey Business Answer.pdf (5 pages)

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

MONKEY BUSINESS, INC.,

Opposer,

v.

MONTY BRINKLEY,

Applicant.

Opposition No.: 91166822

Mark: G SAID GOD SEES ALL I
DO

Serial No.: 78439080

Filing Date: June 22, 2004

Published: September 6, 2005

ANSWER

Applicant, by its attorneys, hereby answers the Notice of Opposition as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of those allegations.
2. Answering paragraph 2 of the Notice of Opposition, Applicant admits that the current TARR database records list Opposer as the owner of Registration No. 2,945,927, and that the TESS database provides that the registration is under International Class 25, Clothing, namely, T-Shirts, Sweatshirts, Tops, Shorts, Overalls, Skirts, Hats, Socks, Pants, Jackets, Shoes, Scarves, and Underwear. As to all remaining allegations contained in paragraph 2 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of those allegations, and therefore denies same.
3. Answering paragraph 3 of the Notice of Opposition, Applicant admits that the current TARR database records list Opposer as the owner of Registration No. 2,945,926, and that the TESS database provides that the registration is under International Class 25, Clothing, namely, T-

Shirts, Sweatshirts, Tops, Shorts, Overalls, Skirts, Hats, Socks, Pants, Jackets, Shoes, Scarves, and Underwear. As to all remaining allegations contained in paragraph 3 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of those allegations, and therefore denies same.

4. Answering paragraph 4 of the Notice of Opposition, Applicant admits that the current TESS database records list Opposer as having filed an intent to use U.S. Trademark Application Serial No. 78629404, under International Class 25 for Clothing, namely, Shirts, Sweaters, Hats, Socks, Pants and Jackets, with a date of first use listed as June 1995; under International Class 21 for Beverageware, with a date of first use listed as June 21, 2002; and under International Class 20, for Plaques, with a date of first use listed as November 13, 2004. As to all remaining allegations contained in paragraph 4 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of those allegations, and therefore denies same.
5. Answering paragraph 5 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of those allegations asserted in paragraph 5 of the Notice of Opposition, and therefore denies same.
6. Answering paragraph 6 of the Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as to the truth of those allegations asserted in paragraph 6 of the Notice of Opposition, and therefore denies same.
7. Answering paragraph 7 of the Notice of Opposition, Applicant admits the truth of the allegations contained therein.

8. Answering paragraph 8 of the Notice of Opposition, Applicant denies the allegations asserted in paragraph 8 of the Notice of Opposition.
9. Answering paragraph 9 of the Notice of Opposition, Applicant admits that it uses G SAID as an acronym in combination with the phrase GOD SEES ALL I DO. Applicant denies all the remaining allegations contained in paragraph 9 of the Notice of Opposition.
10. Answering paragraph 10 of the Notice of Opposition, Applicant denies the allegations therein.
11. Answering paragraph 11 of the Notice of Opposition, Applicant denies the allegations therein.

AFFIRMATIVE DEFENSES

In further answer to the Notice of Opposition, Applicant asserts that:

First Affirmative Defense

Opposer's Notice of Opposition fails to state a claim upon which relief can be granted, and, in particular, fails to state legally sufficient grounds for sustaining the Opposition.

Second Affirmative Defense

Applicant's use of G SAID: GOD SEES ALL I DO, will not mistakenly be thought by the public to derive from the same source as Opposer's marks Jesus Said, Go Fishing, Jesus Said, Go Sailing, Jesus Said, Take a Hike, Jesus Said, Show Me the Fish, nor will such use be thought of by the public to be a use by Opposer or with Opposer's authorization or approval.

Third Affirmative Defense

Applicant's mark in its entirety is sufficiently distinctively different from Opposer's marks to avoid confusion, deception or mistake as to the source, or sponsorship, or association of Applicant's goods.

Fourth Affirmative Defense

Applicant's mark, when used on Applicant's goods, is not likely to cause confusion, or cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer, or as to the origin, sponsorship or approval of Applicant's goods by Opposer.

WHEREFORE, Registrant prays that this Opposition proceeding be dismissed with prejudice and that a trademark registration for its mark issue forthwith.

This 15th day of November, 2005.

Respectfully submitted,

SHAPIRO FUSSELL WEDGE SMOTHERMAN
MARTIN & PRICE, LLP

/s/ Robert M. Sommers

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ATTORNEYS FOR APPLICANT
MONTY BRINKLEY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing and hereto attached Answer was served upon the following by mailing a true copy thereof to the address as indicated below, in the United States Mail, first class postage prepaid:

Thomas J. Oppold
Larkin Hoffman Daly & Lindgren Ltd.
1500 Wells Fargo Plaza
7900 Xerxes Avenue South
Bloomington, MN 55431

This 15th day of November, 2005.

/s/ Robert M. Sommers