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Filing date: **12/04/2006**

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

Proceeding	91174252
Party	Defendant Michele M. Hedges Michele M. Hedges 4762 Redstart Street Houston, TX 770354908
Correspondence Address	Christopher D. Keirs Wong Cabello Lutsch Rutherford & Brucul Suite 600 20333 State Hwy. 249 Houston, TX 77070
Submission	Answer
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Date	12/04/2006
Attachments	Answer.pdf (5 pages)(446386 bytes)

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

Playtex Products, Inc.,

Opposer,

- against -

Michele M. Hedges,

Applicant.

Opposition No.: 91174252

ANSWER

December 4, 2006

Assistant Commissioner of Trademarks
BOX TTAB — NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

APPLICANT'S ANSWER TO OPPOSER'S NOTICE OF OPPOSITION

In response to the Notice of Opposition issued by the Board on November 29, 2006, Michele M. Hedges ("Applicant") hereby responds to Playtex Products, Inc. ("Opposer") as follows:

- 1 Applicant admits the allegations of Paragraph of the Notice of Opposition.
- 2 Applicant admits the allegations of Paragraph 2 of the Notice of Opposition.
- 3 Applicant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in Paragraph 3 of the Notice of Opposition, and therefore denies same.
- 4 Applicant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in Paragraph 4 of the Notice of Opposition, and therefore denies same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in Paragraph 5 of the Notice of Opposition, and therefore denies same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in Paragraph 6 of the Notice of Opposition, and therefore denies same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in Paragraph 7 of the Notice of Opposition, and therefore denies same.

8. Applicant denies the allegations of Paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations of Paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations of Paragraph 10 of the Notice of Opposition.

Applicant denies the allegations of Paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations of Paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations of Paragraph 13 of the Notice of Opposition.

4. Applicant denies the allegations of Paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations of Paragraph 15 of the Notice of Opposition.

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

The term "binky" is a commonly used word which Wikipedia defines as: "A stuffed animal or other toy that a baby or small child is more attached to than any other, and often sleeps with during bedtime as well."

Opposer's purported rights extend no further than to the specific goods upon which Opposer alleges it has used its asserted "binky" mark, which are not the same as or confusingly similar to Applicant's goods.

THIRD AFFIRMATIVE DEFENSE

Applicant's use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

FOURTH AFFIRMATIVE DEFENSE

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

FIFTH AFFIRMATIVE DEFENSE

Applicant's mark, when used on Applicant's goods, is not likely to cause confusion, or to 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.

SIXTH AFFIRMATIVE DEFENSE

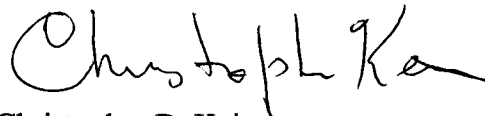
Opposer's asserted mark is not a famous mark and therefore not subject to the anti-dilution provisions of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).

RELIEF REQUESTED

WHEREFORE, Applicant respectfully requests that this opposition proceeding be dismissed, with prejudice.

Dated: December 4, 2006

Respectfully submitted,

A handwritten signature in black ink that reads "Christopher Keirs". The signature is written in a cursive style with a large initial "C" and a stylized "K".

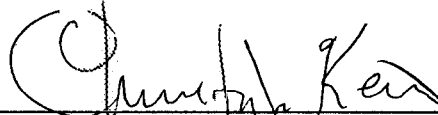
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CERTIFICATE OF SERVICE

I hereby certify that this ANSWER is being served by mail by depositing a copy of the same with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Rose Auslander, Carter Ledyard & Milburn LLP, 2 Wall Street, New York, NY 10005 on the date shown below.

Date: December 4, 2006

By:



Christopher D. Keirs