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

Proceeding	91196784
Party	Defendant LF USA Inc.
Correspondence Address	LORA A. MOFFATT SALANS ROCKEFELLER CENTER, 620 FIFTH AVE NEW YORK, NY 10020 lmoffatt@salans.com
Submission	Answer
Filer's Name	Lora A. Moffatt
Filer's e-mail	lmoffatt@salans.com, acarlson@salans.com
Signature	/lora a moffatt/
Date	11/15/2010
Attachments	fashionablyanswer.pdf (5 pages)(135214 bytes)

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

MISS ELAINE, INC.)	
)	
Opposer,)	
)	
v.)	
)	Opposition No. 91196784
LF USA, INC.,)	
)	
Applicant.)	
)	
)	

ANSWER TO NOTICE OF OPPOSITION

Applicant, LF USA, Inc., by its attorneys, Salans LLP, in answer to the Notice of Opposition filed by Miss Elaine, Inc. (“Opposer”) in the matter of Trademark Application Serial No. 77/768,313, hereby states as follows:

1. Applicant admits that it filed an application to register the mark FASHIONABLY ME (the “Mark”) in Class 25 for “t-shirts, bathrobes; lingerie; nightgowns; nightshirts; pajamas; sleepwear; bras; boxer briefs; boxer shorts, panties, shorts and briefs; underwear; undergarments; undershirts; and underpants” on June 25, 2009, claiming a date of first use of the mark in commerce and interstate commerce as of January 31, 2009; that it was assigned Serial No. 77/768,313; and that it was published in the *Official Gazette for Trademarks* on June 8, 2010 (the “Application”).

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2 of the Notice of Opposition and, therefore, denies those allegations.

3. Applicant denies that Opposer owns any common law rights to the marks listed in Paragraph 2 of the Notice of Opposition, but is otherwise without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 3 of the Notice of Opposition and, therefore, denies those allegations.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4 of the Notice of Opposition and, therefore, denies those allegations.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5 of the Notice of Opposition and, therefore, denies those allegations.

6. Applicant denies the allegations contained in Paragraph 6 of the Notice of Opposition.

7. Applicant denies the allegations contained in Paragraph 7 of the Notice of Opposition.

8. Applicant denies the allegations contained in Paragraph 8 of the Notice of Opposition with respect to it, but is otherwise without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 8 of the Notice of Opposition and, therefore, denies those allegations.

9. Applicant denies the allegations contained in Paragraph 8 of the Notice of Opposition with respect to it, but is otherwise without knowledge or information sufficient to

form a belief as to the truth of the remaining allegations set forth in Paragraph 9 of the Notice of Opposition and, therefore, denies those allegations.

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

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

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

13. Applicant admits that if the Application is granted registration, such registration would be a *prima facie* exclusive right to use the Mark and denies the remaining allegations contained in Paragraph 13 of the Complaint.

14. Applicant denies the allegations contained in Paragraph 14 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Opposer fails to state a claim upon which relief can be granted.

Second Affirmative Defense

There is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark is not confusingly similar to Opposer's pleaded marks.

Third Affirmative Defense

Alternatively, any similarity between the Mark and Opposer's alleged marks is limited to that portion of the Mark consisting of the word 'ME", which is not distinctive.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety; that Applicant's application be permitted to proceed to registration at an early date; and that any such further relief be granted Applicant as may be deemed reasonable and appropriate.

Date: November 15, 2010

Respectfully submitted,

SALANS LLP

By: 

Lora A. Moffatt
Alison G. Carlson
620 Fifth Avenue
New York, NY 10020
Tel: 212-632-5500
Fax: 212-632-5555
Attorneys for Applicant

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MISS ELAINE, INC.

Opposer,

v.

LF USA, INC.,

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CERTIFICATE OF SERVICE BY FIRST-CLASS MAIL

I hereby certify that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION in the above matter, is being deposited with the United States Postal Service as First-Class mail, postage paid, in an envelope addressed to Cathy J. Futrowsky, Gallop, Johnson & Neuman, L.C. 101 S. Hanley Road, Suite 1700, St. Louis, MO 63105, on this 15th day of November 2010.


Margaret Ajitsingh