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

Proceeding	91205900
Party	Defendant The Keep A Breast Foundation
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Date	08/10/2012
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Application Serial no. 85/212,317
For the Mark I LOVE BOOBIES
Filed January 6, 2011- and published in the Official Gazette June 5, 2012**

NEW DIMENSIONS, INC.,

Opposition No. 91205900

Opposer,

-against-

THE KEEP A BREAST FOUNDATION,

Applicant.

APPLICANT'S ANSWER

THE KEEP A BREAST FOUNDATION, ("Applicant") answers the Notice of Opposition filed by New Dimensions, Inc., ("Opposer") against its pending Application Serial No. 85/212,317 as set forth below.

1. Applicant admits the allegations contained in paragraph 1 of the Notice of Opposition.
2. Applicant admits the allegations contained in paragraph 2 of the Notice of Opposition.
3. Applicant admits the allegations contained in paragraph 3 of the Notice of Opposition.

4. Applicant lacks sufficient information to form a belief as to the truth or falsity of the facts alleged in paragraph 4 of the Notice of Opposition, and on such basis, denies the same.

5. Applicant admits the allegations contained in paragraph 5 of the Notice of Opposition.

6. Applicant admits the allegations contained in paragraph 6 of the Notice of Opposition. Applicant also states with regard to the allegations contained in paragraph 6 of the Notice of Opposition that the term BOOBIE does not consist solely of the definition provided. Applicant contends that the term BOOBIE has some source-identifying characteristics with regard to Applicant's use of the term in its various trademarks.

7. Applicant lacks sufficient information to form a belief as to the truth or falsity of the facts alleged in paragraph 7 of the Notice of Opposition, and on such basis, denies the same.

8. Applicant lacks sufficient information to form a belief as to the truth or falsity of the facts alleged in paragraph 8 of the Notice of Opposition, and on such basis, denies the same.

9. Applicant denies each and every allegation contained in paragraph 9 of the Notice of Opposition.

10. Applicant lacks sufficient information to form a belief as to the truth or falsity of whether Opposer and others, since prior to Applicant's use of "I LOVE BOOBIES" and prior to the filing date of the Applicant's application, have been continually using and prominently displaying the term "BOOBIES," and the phrases "I [HEART] BOOBIES" and "I LOVE BOOBIES" in connection with goods, including breast cancer awareness products which have been displayed on the websites alleged, and on such basis, denies the same. Applicant admits that the term "BOOBIES" has been used on clothing prior to Applicant's use of "I LOVE BOOBIES." Applicant admits the existence of the trademark registrations identified by Opposer,

but makes no admission as to their actual validity, or any bona fide use of the marks on the goods by the registrants of such registrations.

11. The allegations contained in paragraph 11 are legal conclusions which do not require a response. To the extent that the allegations contained in paragraph 11 contain facts, Applicant denies them.

12. The allegations contained in paragraph 12 are legal conclusions which do not require a response. To the extent that the allegations contained in paragraph 12 contain facts, Applicant denies them.

13. Applicant denies each and every allegation contained in paragraph 13 of the Notice of Opposition.

14. The allegations contained in paragraph 14 are legal conclusions which do not require a response. To the extent that the allegations contained in paragraph 14 contain facts, Applicant denies them.

15. The allegations contained in paragraph 15 are legal conclusions which do not require a response. To the extent that the allegations contained in paragraph 15 contain facts, Applicant lacks sufficient lacks sufficient information to form a belief as to the truth or falsity of the facts alleged in paragraph 15 of the Notice of Opposition, and on such basis, denies the same.

16. Applicant denies each and every allegation contained in paragraph 16 of the Notice of Opposition.

17. Applicant states that Opposer's characterization of Applicant's trademark as a slogan is a legal conclusion for which no response is required. Applicant admits that its various trademarks assist Applicant in carrying out Applicant's mission through branding, which includes in part, spreading a breast cancer awareness message.

18. The allegations contained in paragraph 18 are legal conclusions which do not require a response. To the extent that the allegations contained in paragraph 18 are factual, Applicant denies them.

19. The allegations contained in paragraph 19 are legal conclusions which do not require a response. To the extent that the allegations contained in paragraph 19 are factual, Applicant denies them.

20. The allegations contained in paragraph 20 are legal conclusions which do not require a response. To the extent that the allegations contained in paragraph 20 are factual, Applicant lacks sufficient lacks sufficient information to form a belief as to the truth or falsity of the facts alleged in paragraph 20, and on such basis, denies them.

21. The allegations contained in paragraph 21 purport to grant the Opposer standing in this action. Whether Opposer has standing is a legal conclusion to which no response is necessary. To the extent that paragraph 21 contains factual allegations, Applicant lacks sufficient information to form a belief as to the truth or falsity of whether in fact, Opposer will be damaged by the registration of I LOVE BOOBIES application. Applicant admits that it is currently involved in a federal civil lawsuit with Opposer regarding Applicant's various trademarks.

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AFFIRMATIVE DEFENSES AND ALLEGATIONS

22. Opposer has failed to state a claim upon which relief may be granted.

23. Opposer lacks standing to bring the Notice of Opposition based on the fact that the Opposer does not have a “real interest” in the registration of the Applicant’s trademark.

24. The claims contained in Opposer’s Notice of Opposition are barred by the doctrine of laches.

25. The claims contained in Opposer’s Notice of Opposition are barred by the doctrine of waiver

26. The claims contained in Opposer’s Notice of Opposition are barred by the doctrine of estoppel.

27. The claims contained in Opposer’s Notice of Opposition are barred by acquiescence.

28. The Applicant’s I [HEART] BOOBIES and I LOVE BOOBIES marks have acquired secondary meaning.

29. The Applicant’s I [HEART] BOOBIES and I LOVE BOOBIES marks have acquired fame, including without limitation, niche fame.

30. Applicant reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Lanham Act, and any other defenses or counterclaims at law or in equity that may exist now or in the future be available based on discovery and further factual investigation of this case.

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WHEREFORE, Applicant prays that this Opposition be dismissed with prejudice, and that the Applicant's mark be granted registration.

Date: August 10, 2012

Respectfully Submitted,

COAST LAW GROUP, LLP

By: /s/ Sean Flaherty

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NEW DIMENSIONS, INC.,

Opposition No. 91205900

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Answer on the Attorney of Record for the Opposer by mailing it via First Class Mail postage prepaid and my e-mailing it, on the 10th day of August, 2012, at the address indicated below:

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By: /s/ Sean Flaherty

Sean D. Flaherty