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

Proceeding	91211436
Party	Defendant ERIC INSUA
Correspondence Address	JENNIE S MALLOY MALLOY & MALLOY PL 2800 SW 3RD AVE MIAMI, FL 33129-2317 UNITED STATES
Submission	Answer
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Date	08/15/2013
Attachments	Answer and Affirmative Defenses.pdf(167985 bytes)

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

In the Matter of Application Serial No. 85/624,694:
DÁLE! DO IT
Published in the Official Gazette on April 23, 2013

ARMANDO PÉREZ)	
)	
and)	
)	
ACP IP, LLC,)	
)	
Opposers,)	
)	
v.)	Opposition No. 91211436
)	
ERIC INSUA,)	
)	
Applicant.)	
_____)	

ANSWER AND AFFIRMATIVE DEFENSES

Applicant, ERIC INSUA, by and through the undersigned counsel, responds to the Notice of Opposition filed herein by the Opposers, as follows:

Answer

1. Admitted.
2. Admitted.
3. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 3 of the Notice of Opposition, and therefore denies same.

4. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 4 of the Notice of Opposition, and therefore denies same.
5. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 5 of the Notice of Opposition, and therefore denies same.
6. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 6 of the Notice of Opposition, and therefore denies same.
7. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 7 of the Notice of Opposition, and therefore denies same.
8. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 8 of the Notice of Opposition, and therefore denies same.
9. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 9 of the Notice of Opposition, and therefore denies same.
10. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 10 of the Notice of Opposition, and therefore denies same.
11. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph

11 of the Notice of Opposition, and therefore denies same.

12. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 12 of the Notice of Opposition, and therefore denies same.

13. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 13 of the Notice of Opposition, and therefore denies same.

14. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 14 of the Notice of Opposition, and therefore denies same.

15. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 15 of the Notice of Opposition, and therefore denies same.

16. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 16 of the Notice of Opposition, and therefore denies same.

17. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 17 of the Notice of Opposition, and therefore denies same.
18. Applicant denies that "let's go" is the sole or correct interpretation or meaning of the Spanish word "DALE".
19. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 19 of the Notice of Opposition, and therefore denies same.
20. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 20 of the Notice of Opposition, and therefore denies same.
21. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 21 of the Notice of Opposition, and therefore denies same.
22. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 22 of the Notice of Opposition, and therefore denies same.

23. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 23 of the Notice of Opposition, and therefore denies same.
24. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 24 of the Notice of Opposition, and therefore denies same.
25. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 25 of the Notice of Opposition, and therefore denies same.
26. Admitted that Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a) speaks for itself, otherwise denied.
27. Denied.
28. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 28 of the Notice of Opposition, and therefore denies same.
29. Admitted that the applied-for mark incorporates the term "DALE," but denied that it is Opposer Perez's tagline.
30. Admitted.

31. Admitted that Perez has not consented to Applicant's registration of DALE! DO IT as a United States trademark, but denied that such consent is necessary.
32. Denied.
33. Denied.
34. Denied.
35. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 35 of the Notice of Opposition, and therefore denies same.
36. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph 36 of the Notice of Opposition, and therefore denies same.
37. Admitted that Applicant filed the Application on May 14, 2012. Applicant is without knowledge sufficient to admit or deny the remaining allegations contained in Paragraph 37 of the Notice of Opposition, and therefore denies same.
38. Admitted that the applied-for mark incorporates the term "DALE," otherwise denied.
39. Applicant is without knowledge sufficient to admit or deny the allegations contained in Paragraph

39 of the Notice of Opposition, and therefore denies same.

40. Denied.

41. Denied.

GENERAL DENIALS

42. Applicant denies all of the allegations contained in the PREAMBLE and CONCLUSION of the Notice of Opposition.

43. Applicant hereby denies each and every allegation, claim or prayer for relief in the Notice of Opposition, except as expressly admitted herein, and demands strict proof thereof.

AFFIRMATIVE DEFENSES

In response to the Notice of Opposition, Applicant affirmatively states:

1. Opposer PEREZ lacks protectable rights in and to the term DALE.
2. Opposers lack priority as between the Applicant's mark and any alleged mark upon which Opposers can rely.
3. Alternatively, if the Board finds that Opposers have priority and that there is a likelihood of confusion or false suggestion of connection, then a restriction of the goods identified in the opposed application will

avoid any such confusion or false suggestion of a connection.

4. Applicant reserves the right to amend its affirmative defenses.

WHEREFORE Applicant requests that the Notice of Opposition be denied.

Respectfully submitted,

Dated: August 15, 2013

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CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing Answer and Affirmative Defenses was filed electronically via the ESTTA, at the United States Patent and Trademark Office, Trademark Trial and Appeal Board's ESTTA electronic filing system, on August 15, 2013.

By: /Oliver Alan Ruiz/
Oliver Alan Ruiz
Florida Bar No. 524,786

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete copy of the foregoing Answer and Affirmative Defenses has been served on the following by mailing said copy on August 15, 2013, via First Class Mail, postage prepaid, with a courtesy copy by email to:

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Respectfully submitted,

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