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

Proceeding	91213179
Party	Defendant Select Comfort Corporation
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Attachments	COMFORT INDIVIDUALIZED ANSWER.pdf(218258 bytes )

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

Application Serial No. 85739784  
COMFORT. INDIVIDUALIZED.  
Published August 27, 2013

KING KOIL LICENSING COMPANY, INC.,

Opposer,

v.

Opposition No. 91213179

SELECT COMFORT CORPORATION,

Applicant.

**ANSWER TO NOTICE OF OPPOSITION**

Select Comfort Corporation (“Applicant”), for its Answer to the Notice of Opposition filed by King Koil Licensing Company, Inc. (“Opposer”) against the application for registration of the mark COMFORT. INDIVIDUALIZED., Serial No. 85739784, responds as follows:

Applicant denies each and every allegation of the Notice of Opposition which is not hereinafter specifically admitted.

1. Applicant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and on that basis denies them.
2. Applicant admits the allegations of Paragraph 2.
3. With respect to the allegations of Paragraph 3, Applicant admits that USPTO records identify Opposer as the owner of the US Registrations identified therein, but notes that in Registration No. 3986571 for the mark INDIVIDUAL COMFORT SOLUTIONS, Opposer disclaims the exclusive right to use “INDIVIDUAL COMFORT” apart from the mark as shown, and that in Registration No. 300616 for the mark COMFORT SOLUTIONS, Opposer disclaims the exclusive right to use “COMFORT” apart from the

mark as shown, such that the only wording not disclaimed in Opposer's cited registrations is SOLUTIONS. With respect to the remaining allegations of Paragraph 3, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies them.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 and on that basis denies them.
5. Applicant denies the allegations of Paragraph 5.
6. Applicant admits that the filing dates and registration dates of Registration Nos. 3986571 and 3006161 are prior to the filing date and date of first use in commerce identified in Applicant's application. Applicant is without knowledge or information sufficient to form a belief as to the truth of the other allegation of Paragraph 6 and on that basis denies them.
7. Applicant denies the allegations of Paragraph 7.
8. Applicant denies the allegations of Paragraph 8.

#### **AFFIRMATIVE DEFENSES**

9. Opposer's Notice of Opposition, in whole or in part, fails to state a claim upon which relief can be granted.
10. Due to the lack of similarity between Applicant's and Opposer's marks, Applicant's mark is not likely to cause confusion, mistake, or deception with Opposer's marks.

Applicant reserves the right to assert any and all other affirmative defenses of which it becomes aware during the pendency of this matter.

**WHEREFORE**, Applicant prays that the Notice of Opposition be dismissed with prejudice and on the merits, and that Applicant's registration be allowed.

Respectfully submitted,

OPPENHEIMER WOLFF & DONNELLY LLP

Dated: March 4, 2014

By

  
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ATTORNEYS FOR APPLICANT

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4th day of March, 2014, I served a true and correct copy of the foregoing Answer to Notice of Opposition on counsel of record by depositing a true and correct copy thereof in the United States mail in a sealed envelope with postage thereon fully prepaid, addressed as follows:

Michael A. Carrillo  
BARNES & THORNBURG LLP  
P.O. Box 2786  
Chicago, IL 60690-2786



Barbara J. Grahn