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

Proceeding	91218264
Party	Defendant MUSIC Group IP Ltd.
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Date	10/20/2014
Attachments	Answer.pdf(109142 bytes)

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

Fishman Transducers, Inc.)	Opposition No. 91218264
)	
Opposer,)	Serial No. 85/647325
)	
v.)	
)	
MUSIC Group IP Ltd.,)	
)	
Applicant.)	Attorney Docket No. 900195.838
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**APPLICANT MUSIC GROUP IP LTD.’S
ANSWER TO NOTICE OF OPPOSITION**

Applicant MUSIC Group IP Ltd (“MUSIC Group” or “Applicant”), by and through its attorneys, hereby answers the Notice of Opposition filed by Opposer Fishman Transducers (“Fishman” or “Opposer”) *ad seriatim*:

MUSIC Group admits upon information and belief that Fishman is incorporated in Delaware and has a mailing address of 6 Riverside Drive, Andover, MA 01810. MUSIC Group admits it has filed a trademark application, serial no. 85/647325 which speaks for itself. MUSIC Group lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the opening paragraph of the Opposition, and on that basis denies them.

1. U.S. Trademark Registration No. 2,972,017 speaks for itself. MUSIC Group lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 1 of the Opposition, and on that basis denies them.

2. MUSIC Group lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Opposition, and on that basis denies them.

3. MUSIC Group lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Opposition, and on that basis denies them.

4. MUSIC Group admits it is a Virgin Islands, British corporation with a mailing address of P.O. Box 146, Trident Chambers, Wickhamy Cay, Road Town, Virgin Islands, British.

5. MUSIC Group admits the allegations of paragraph 5.

6. MUSIC Group admits the allegations of paragraph 6.

7. MUSIC Group admits the allegations of paragraph 7.

8. MUSIC Group admits the allegations of paragraph 8.

9. MUSIC Group denies the allegations of Paragraph 9 of the Opposition.

10. MUSIC Group denies the allegations of Paragraph 10 of the Opposition.

11. MUSIC Group denies the allegations of Paragraph 11 of the Opposition.

12. MUSIC Group denies the allegations of Paragraph 12 of the Opposition.

13. MUSIC Group denies the allegations of Paragraph 13 of the Opposition.

14. MUSIC Group denies the allegations of Paragraph 14 of the Opposition.

15. MUSIC Group lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15 of the Opposition, and on that basis denies them.

AFFIRMATIVE DEFENSES

1. The claim set forth in the Notice of Opposition is barred in whole or in part by the doctrine of waiver. During prosecution of Opposer's AURA Registration, the Examining Attorney refused registration under Sec. 2(d) as likely to cause confusion,

mistake, or to deceive with respect to U.S. Reg. No. 2,482562 for AURA SOUND in connection with “Electronic audio equipment; namely, stereo speaker motors, television speakers, loudspeakers, voice coil actuator motors, and stereo speakers.” In response, Opposer intentionally amended its application to limit its goods to the acoustic market. Opposer then made factual assertions to the Examining Attorney that its goods are sold to “acoustic instrument musicians” while the cited goods in the cited registration were marketed to “stereophiles” and “retail outlets offering home audio and/or home video systems,” and therefore there was no likelihood of confusion, mistake, or deception. In reliance on these assertions, the Examining Attorney allowed Opposer’s application.

2. Applicant is at least entitled to pursue and obtain a registration of the mark AURATONE for “apparatus for creating, processing, retrieval, and manipulation of sound, namely, speakers and loudspeakers; headphones ” in International Class 009.

PRAYER FOR RELIEF

WHEREFORE, MUSIC Group requests judgment:

1. Dismissing Opposer’s Notice of Opposition and allowing Applicant’s application to proceed to registration.

DATED this 20th day of October, 2014.

Seed IP Law Group PLLC

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Attorneys for Applicant
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CERTIFICATE OF SERVICE

I hereby certify that the above **APPLICANT MUSIC GROUP IP LTD.’S ANSWER TO NOTICE OF OPPOSITION** was served on Opposer’s counsel by U.S. first class mail on October 20, 2014, addressed as follows:

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/Kelly Brennan/

Kelly Brennan