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

Proceeding	91221779
Party	Defendant Winter.pumpen GmbH
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Date	10/22/2015
Attachments	WINTER Answer to Opposition 10.22.15.pdf(95754 bytes)

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

In re Application No. 79/138830

Speck Pumpen
Verkaufsgesellschaft GmbH

Opposer,

v.

Winter.pumpen GmbH,

Applicant.

Opposition No. 91221779

Answer

1. Applicant admits Paragraph 1.
2. Applicant has insufficient information about the allegations in Paragraph 2 and therefore denies same.
3. Applicant has insufficient information about the allegations in Paragraph 3 and therefore denies same.
4. Applicant has insufficient information about the allegations in Paragraph 4 and therefore denies same and specifically denies that the “Gear Man” design is a prominent feature of Opposer’s claimed registrations.
5. Applicant denies Paragraph 5.
6. Applicant denies Paragraph 6.
7. Applicant denies Paragraph 7.
8. Applicant denies that any portion of Opposer’s “Gear Man” is displayed on Applicant’s website and specifically denies that any portion of Opposer’s Gear

Man mark is in close proximity to Opposer's SPECK word mark and therefore denies the allegations in Paragraph 8.

9. Applicant denies Paragraph 9.

10. Applicant denies Paragraph 10.

11. Applicant denies that Opposer is identified in Applicant's mark WINTER and Design and otherwise admits that Opposer is not connected with the goods sold or services performed by Applicant under Applicant's mark.

12. Applicant denies Paragraph 12.

13. Applicant denies the allegation that Applicant had "predatory intentions in creating such a false suggestion of connection" with Opposer.

14. Applicant denies Paragraph 14.

AFFIRMATIVE DEFENSES

15. Applicant's mark, in its entirety, is visually, verbally and connotatively disparate from Opposer's marks.

16. The dominant element of Opposer's mark is the word SPECK.

17. The dominant element of Applicant's mark is WINTER.

18. The dominant element of Opposer's mark, SPECK, bears no similarity to the dominant element of Applicant's mark WINTER.

19. The design element of Opposer's mark is comprised of a gear and as such functions to describe a feature of Opposer's goods.

20. Designs of gears are in common use.


21. There are a number of third parties that have registered the design of a gear in connection with Opposer's goods and goods related thereto.

22. Opposer does not have the exclusive right to use or register the design of a gear.

Wherefore it is requested that this Opposition be dismissed with prejudice.

Dated: October 22, 2015

Respectfully submitted,




JULIE B. SEYLER
ERICA HALSTEAD

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by first class mail, postage prepaid this 22nd day of October, 2015 upon the following:

Charles E. Baxley
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JULIE B. SEYLER