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

Proceeding	91222638
Party	Defendant Parsons Xtreme Golf, LLC
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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. 86/404,044: PARSONS XTREME GOLF
Published in the *Official Gazette* on March 3, 2015 in International Class 9

THE NEW SCHOOL,)	
)	
Opposer,)	Opposition No. 91222638
)	
v.)	
)	
PARSONS XTREME GOLF, LLC,)	
)	
Applicant.)	
)	

APPLICANT’S ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION

Applicant Parsons Xtreme Golf, LLC, by its attorneys, answers Opposer’s First Amended Notice of Opposition as follows:

1. The New School is a private university in New York City, founded in 1919. The New School’s Parsons School of Design, widely known and referred to under the mark PARSONS, is an art and design school that is one of the five schools of The New School. Parsons was the first school in the United States to offer programs in fashion design, graphic design, and advertising, and has been offering its design curriculum under the PARSONS name since 1941. Parsons is widely regarded as one of the most prestigious art and design schools in the world. Since substantially prior to the filing date of the Application, and any use by Applicant of the mark in the Application, Opposer has continuously used the PARSONS mark in connection with its wide range of educational and design-related services.

ANSWER: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 and therefore denies those allegations.

OPPOSER'S RIGHTS

2. Opposer owns U.S. Registration No. 2,475,942 for the PARSONS mark for “educational services, namely, providing on and off site lectures and instruction at the undergraduate, graduate, and adult education levels in the fields of fine arts, liberal arts, environmental design, communications design, illustration, interior design, fashion design, product design, photography, and architecture” in International Class 41. U.S. Registration No. 2,475,942 issued on August 7, 2001, from an application filed on Jun. 8, 2000, and has attained incontestable status. Attached as Exhibit A are true and correct copies of the registration certificate, Notice of Acceptance of Section 8 and Section 15 Affidavits, Notice of Acceptance of Section 8 Declaration and Section 9 Renewal, Assignment, and the TSDR record for U.S. Registration No. 2,475,942. Opposer owns the mark covered by this registration, the registration itself, and the goodwill and reputation of the services connected with and symbolized by the mark. Opposer has used the mark in connection with these services since long prior to the filing date of the Application.

ANSWER: Applicant admits that Exhibit A includes copies of public records relating to Registration 2,475,942 and the ownership thereof; such records speak for themselves. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 and therefore denies those allegations.

3. Opposer has continuously offered and promoted its wide range of educational and design services under the PARSONS mark since at least as early as 1941. Through continuous use and promotion of its marks, Opposer has acquired common law rights in the PARSONS mark.

ANSWER: Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation of paragraph 3 and therefore denies those allegations.

LIKELIHOOD OF CONFUSION AND FALSE SUGGESTION OF A CONNECTION

4. By its Application Serial No. 86/404,044, Applicant seeks to register the mark PARSONS XTREME GOLF for “eyewear, namely, sunglasses; cases for eyewear; cases for computers and wireless communication devices; protective covers for computers and wireless communication devices; computer software for computers and wireless communication devices, namely, software for shopping, social networking, or transmission and receipt of data; computer software for processing images, graphics, audio, video, or text; computer software for wireless content delivery; computers and wireless communication devices for voice, data, or image transmission” in International Class 9.

ANSWER: Applicant admits the allegation of paragraph 4.

5. This application was filed on September 23, 2014 on an intent-to-use basis, well after Opposer’s first use of its PARSONS mark and well after Opposer registered its PARSONS mark.

ANSWER: Applicant admits that Application Serial No. 86/404,044 was filed on September 23, 2014, on an intent to use basis. Applicant is without knowledge or information sufficient to form a belief as to the truth of remaining allegations of paragraph 5 and therefore denies those allegations.

6. Applicant's PARSONS XTREME GOLF mark is substantially similar in sight, sound, meaning, and commercial impression to Opposer's PARSONS mark as to be likely to cause confusion, or to cause mistake, or to deceive, and to falsely suggest a connection with Opposer.

ANSWER: Applicant denies the allegations of paragraph 6.

7. PARSONS is the dominant element in both Applicant's and Opposer's marks because it is the first word, and the word most likely to be remembered and used by consumers to indicate the source of the respective goods and services. The additional terms in Applicant's marks will not dispel confusion because Applicant's mark includes Opposer's mark in its entirety. Consumers may be led to believe that PARSONS refers to a house mark and Applicant's products and services are offered by or associated with the Opposer. The term XTREME is a variation of the word "extreme," which is a laudatory adjective and does not serve to distinguish Applicant's mark from Opposer's well-known mark, while the word GOLF is generic and has been disclaimed by the Applicant. Consumers are likely to believe that Applicant's Parsons School of Design, an institution widely known for its cutting-edge approach to design, is the source of PARSONS XTREME GOLF products. Therefore, Applicant's mark and Opposer's mark are confusingly similar in appearance, sound, meaning, connotation, and commercial impression. Moreover, Opposer's PARSONS mark points uniquely and unmistakably to Opposer's Parsons School of Design in the fields of product and fashion design, and Applicant's mark falsely suggests a connection with Opposer.

ANSWER: Applicant denies the allegations of paragraph 7.

8. On information and belief, Applicant's goods are related and complementary to the design education services that Opposer offers under its PARSONS mark. Parsons is a leading school for art and design, including product and fashion design in the United States. Parsons is widely known to have educated some of the most innovative designers behind leading fashion brands. Parsons student and alumni projects also include product, technology, and transdisciplinary design. On information and belief, Applicant will be offering its eyewear, accessories, and computer software for shopping and social networking to consumers interested in fashion and design, and who are likely to be familiar with Opposer's PARSONS mark and renowned design school.

ANSWER: Applicant denies that Applicant's goods are related and complementary to the design education services that Opposer offers under its PARSONS mark. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 8 and therefore denies those allegations.

9. On information and belief, Applicant intends to offer its proposed goods through channels of trade that may overlap with those used by Opposer for its services under the PARSONS mark or to consumers familiar with the Parsons School of Design.

ANSWER: Applicant denies the allegations of paragraph 9.

10. In view of the fact that Applicant's PARSONS XTREME GOLF mark is substantially similar in sight, sound, meaning, and commercial impression to Opposer's PARSONS mark; that on information and belief, Applicant's goods and Opposer's services are related and complementary and that the channels of trade and customer bases for Applicant's and

Opposer's respective services appear to be the same or overlapping, Applicant's PARSONS XTREME GOLF mark so resembles Opposer's PARSONS mark as to be likely to cause confusion, or to cause mistake, or to deceive 15 U.S.C. § 1052(d). Additionally, Opposer's PARSONS mark is widely known in the fields of product and fashion design, and Applicant's mark falsely suggests a connection with Opposer under 15 U.S.C. § 1052(a). Opposer would thereby be damaged by registration of Applicant's PARSONS XTREME GOLF mark. Opposer's goodwill and reputation will be jeopardized by Applicant's use and registration of the PARSONS XTREME GOLF mark.

ANSWER: Applicant denies the allegations of paragraph 10.

PRIMARILY MERELY A SURNAME

11. On information and belief, Applicant's mark is primarily the surname of Robert (Bob) Parsons, the founder of Applicant Parsons Xtreme Golf. Attached as Exhibit B is a true and correct copy of the *What Do The Numbers Mean?* page printed on July 8, 2015 from Applicant's website at http://pxg.com/PXG_What_Numbers_Mean.pdf. As noted above, the term XTREME is a variation of the word "extreme" and is merely a laudatory adjective, while the word GOLF is generic and has been disclaimed by the Applicant. Accordingly, Applicant's mark is primarily merely a surname, which is non-registrable under 15 U.S.C. § 1052(e)(4).

ANSWER: Applicant denies the allegations of paragraph 11.

12. Moreover, Applicant filed the Application on September 23, 2014 on an intent-to-use basis. Applicant has not yet filed a Statement of Use. Accordingly, on information and

belief, the Mark is a non-registrable surname that has not become distinctive as used in connection with Applicant's goods or services as required by 15 U.S.C. § 1052(f).

ANSWER: Applicant admits that Application Serial No. 86/404,044 was filed on September 23, 2014, on an intent to use basis and that a Statement of Use has not yet been filed. Applicant denies the remaining allegations of paragraph 12.

13. For the above-mentioned reasons, Opposer will be damaged by the registration of Applicant's mark.

ANSWER: Applicant denies the allegation of paragraph 13.

WHEREFORE, Applicant requests that this opposition be rejected and that the Board order registration of the mark shown in Application Serial No. 86/404,044.

Date: September 23, 2016

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CERTIFICATE OF SERVICE

I, Sarah C. Kunzendorf, hereby certify that a copy of **APPLICANT'S ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION** has been served upon:

Lynn M. Humphreys
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via first class mail, postage prepaid, on 23rd day of September, 2016.

/s/ Sarah C. Kunzendorf