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Filing date: **11/23/2015**

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

Proceeding	91224949
Party	Defendant Johnson, William E
Correspondence Address	JOHNSON, WILLIAM E 4852 Cypress Woods Dr Apt 136 Orlando, FL 32811-3752 airmanjohnson21@gmail.com
Submission	Answer
Filer's Name	William Johnson
Filer's e-mail	airmanjohnson21@gmail.com
Signature	/William Johnson/
Date	11/23/2015
Attachments	Trademark Trial and Appeal Board Electronic Filing System.pdf(1006486 bytes)

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>
ESTTA Tracking number: ESTTA710002
Filing date: 11/20/2015

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

Proceeding	91224949
Party	Defendant Johnson, William E.
Correspondence Address	Johnson, William E. 4852 Cypress Woods Dr. Apt 136 Orlando, FL 32811-3752
Submission	Answer
Filer's Name	William Johnson
Filer's E-mail	Airmanjohnson21@gmail.com
Signature	/William Johnson/
Date	11/23/2015
Attachment	Applicant's Answer to Notice of Opposition. PDF 17 pages

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use in Commerce: 0

All goods and services in the class are opposed, namely; Collared shirts; Dress shirts; Graphic T-shirts; Hooded sweat shirts; Long-sleeved shirts; Polo shirts; Shirts and short-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; T-shirts

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

In the Matter of:
Applicant Serial No. 86/646,493
Published in the Official Gazette
November 3, 2015

Atlantic Optical Company, Incorporated)
)
Opposer,)
)
v.)
)
Johnson, William E.)
)
Applicant)

Opposition No. 91224949

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant, Eye Am Geek Clothing Company, composed of William E. Johnson, for its/his answer to the Notice of Opposition filed by Atlantic Optical Company Incorporated against application for registration of William E. Johnson’s trademark Eye Am Geek Clothing Company, Serial No. 86646493 filed May 30, 2015, and published in the Official Gazette of November 3, 2015, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant admits the allegations thereof. The Opposer has been continuously engaged in the distribution and sale of EYEWEAR.
2. Answering paragraph 2 of the Notice of Opposition, Applicant admits the allegations thereof. The Opposer has continuously used in commerce the trade name and marks GEEK EYEWEAR and GEEK in connection with the distribution and sale of EYEWEAR and the online retailing of the same.

3. Answering paragraph 3 of the Notice of Opposition, Applicant admits the allegations thereof. The Opposer is the owner of Registration No. 3714939, on the Principal Register for goods in Class 9, namely, EYEWEAR, and EYEGLASS FRAMES and CASES.
4. Answering paragraph 4 of the Notice of Opposition, Applicant admits the allegations thereof. The Opposer is the owner of the mark GEEK for EYEWEAR and EYEWEAR SERVICES in Classes 9 and 35.
5. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded marks of Opposer are not confusingly similar.
6. Applicant further affirmatively alleges that the Applicant's goods for which it seeks to register the mark EYE AM GEEK CLOTHING CO. in Design, namely, collared shirts; dress shirts; graphic t-shirts; hooded sweat shirts; long-sleeved shirts; polo shirts; shirts; and short-sleeved shirts; short sleeved or long-sleeved t-shirts; short-sleeved t-shirts and t-shirts are not related in nature to the fashion goods, namely, EYEWEAR, and the online retailing of the same for which Opposer has used its GEEK EYEWEAR and GEEK name and marks.
7. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded marks of Opposer are not confusingly similar. Applicant's mark EYE AM GEEK CLOTHING CO. in Design, incorporating a stylized eyeglass design, when applied to the goods of the Applicant, does not resemble Opposer's trade name and marks GEEK EYEWEAR and GEEK.
8. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded marks of Opposer are not

confusingly similar. Applicant's mark EYE AM GEEK CLOTHING CO. in Design, incorporating a stylized eyeglass design, when applied to the good of the Applicant, does not resemble Opposer's trade name and marks GEEK EYEWEAR and GEEK.

9. Applicant further affirmatively alleges that as a result of its continuous substantial usage of its Design mark, EYE AM GEEK CLOTHING CO. since adoption, this mark is a valuable asset of Applicant and carries considerable goodwill and consumer acceptance. Such goodwill and widespread usage has made the mark distinctive to the Applicant. Applicant has made use of the Design mark, EYE AM GEEK CLOTHING CO. in commerce for goods on Class 25 prior to May 30, 2015.
10. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded marks of Opposer are not confusingly similar. Applicant's mark EYE AM GEEK CLOTHING CO. in Design, incorporating a stylized eyeglass design, when applied to the good of the Applicant, does not resemble Opposer's trade name and marks GEEK EYEWEAR and GEEK. Any similarity, if at all, between Applicant's mark and the pleaded marks of the Opposer is in the portion "GEEK" which, upon information and belief, has been used and registered by numerous third parties in the fashion goods businesses. Any trademark or service mark rights that the Opposer may have are narrowly circumscribed to the goods or services indicated and any other use would not lead to a likelihood of confusion.
11. Applicant further affirmatively alleges that Opposer's "GEEK" mark has become generic for a peculiar person, especially one who is perceived to be overly intellectual, unfashionable, socially awkward or a person who has excessive enthusiasm for and some

expertise about a specialized subject or activity and therefore cannot have meaning as a trademark.

12. Applicant further affirmatively alleges that there is no likelihood of dilution of Opposer's marks by tarnishment because Opposer's marks are associated with fashion goods, namely EYEWEAR whereas Applicant's mark is associated with fashion goods, APPAREL.
13. Applicant further affirmatively alleges that there is no likelihood of dilution by blurring because Opposer's and Applicant's marks are not sufficiently similar; there are upon information and belief, numerous uses and registrations of third party marks with the "GEEK" formative; neither Applicant nor Applicant's predecessors in interest intended any association with Opposer's marks or any of them; and upon information and belief, ordinary prospective purchasers of Applicant's products do not associate Applicant's and Opposer's marks.
14. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, inter alia, Applicant's mark and the pleaded marks of Opposer are not confusingly similar. Applicant's mark EYE AM GEEK CLOTHING CO. in Design, incorporating a stylized eyeglass design, when applied to the good of the Applicant, does not resemble Opposer's trade name and marks GEEK EYEWEAR and GEEK. Applicant has taken steps to assure Opposer's mark is not confused with Applicant's mark through website search engine optimization (SEO).

WHEREFORE, Applicant requests that the notice of opposition be dismissed and that registration of application Serial Number 86/646,493 be granted.

Respectfully submitted,

William Johnson

By: _____

William Johnson
Eye Am Geek Clothing Company
4852 Cypress Woods Dr. Apt 136
Orlando, FL 32811
(407) 271-7536
Applicant

November 23, 2015

EXHIBIT 1



geek eyewear



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Geek Eyewear Eyeglasses G... \$75.00 Go-Optic.com



Authentic Geek Eyewear Rad... \$62.00 eBay



Geek Eyewear Rad09 Vintag... \$59.99 eBay



Geek Eyewear Eyeglasses G... \$78.95 EyeDocShopp... Special offer

Geek - LBI Eyewear | Frames

www.lbieyewear.com/frames/geek1.html

GEEK 401. 41K BLACK TORTOISE - 41K BLACK TORTOISE. 53 - 20 - 145 HANDMADE ACETATE. 48 - 18 - 140 HANDMADE ACETATE SPRING HINGE ...

Geek Eyewear

www.geekeyewearstore.com/

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GEEK EYEWEAR ★

Website

Directions

Fashion Designer

Address: Beverly Hills, CA 90209

Phone: (424) 244-0045

Reviews

Be the first to review

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EXHIBIT 2



About 12,500,000 results (0.47 seconds)

Eye Am Geek Clothing Company - Facebook

<https://www.facebook.com/eyeamgeek/> -

Eye Am Geek Clothing Company, Orlando, Florida, 182 likes · 1 talking about this. Eye Am Geek Clothing Company is a brand that allows you feel...

Eye Am Geek Clothing Company

www.eyeamgeekcc.com/ -

Eye Am Geek is a brand made to declare to the world I'm a geek and I'm proud of it! Be you and let your geek hang out!

You've visited this page 2 times. Last visit: 8/13/15

Images for eye am geek

Report images



More images for eye am geek

eye am geek clothing co - Justia Trademarks

trademarks.justia.com | Trademarks | Categories | Clothing -

EYE AM GEEK CLOTHING CO is a trademark of Johnson, William E. Filed in May 30 (2015), the EYE AM GEEK CLOTHING CO covers Collared shirts; Dress ...

Eye Am Geek Clothing Company - The Crowdfunding Centre

thecrowdfundingcentre.com/project/D189F4 -

Eye Am Geek Clothing Company is a brand about not being afraid to show the world who truly you are! C'mon Let Your Geek Hang Out! - pany is a brand that ...

Eye Am Geek CC (@eyeamgeekcc) | Twitter

<https://twitter.com/eyeamgeekcc> -

The latest Tweets from Eye Am Geek CC (@eyeamgeekcc): "A Pokéball to go with the flux capacitor! Why not!! <https://t.co/PoxpBa1K2T>"

Eye Am Geek Clothing Company by Will Johnson :: Kicktraq

www.kicktraq.com/projects/398409871/eye-am-geek-clothing-company/ -

Eye Am Geek Clothing Company is a brand about not being afraid to show the world who truly you are! C'mon Let Your Geek Hang Out!

EXHIBIT 3



EXHIBIT 4

STATUS

DOCUMENTS

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Generated on: This page was generated by TSDR on 2015-11-23 01:16:44 EST

Mark: EYE AM GEEK CLOTHING CO



US Serial Number: 86646493

Application Filing Date: May 30, 2015

Register: Principal

Mark Type: Trademark

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, visit the Trademark Trial and Appeal Board web page.

Status Date: Nov. 20, 2015

Publication Date: Nov. 03, 2015

Mark Information

Mark Literal Elements: EYE AM GEEK CLOTHING CO

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of a pair of black hipster glasses, a set of black eyebrows and the words "eye am geek" in a stylized font. The eyebrows are above the glasses and the left eyebrow is raised. The word "eye" appears in the left lens, the word "am" appears in the bridge of the glasses, the word "geek" appears in the right eye of the glasses. The words "CLOTHING CO." appear below the glasses.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "CLOTHING CO."

Design Search Code(s): 02.11.02 - Human eyes; Eyes, human; Iris (eye)

16.03.07 - Glasses, safety; Goggles; Spectacles; Sunglasses; Glasses, eye; Frames, eyeglass; Eyeglasses

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Collared shirts; Dress shirts; Graphic T-shirts; Hooded sweat shirts; Long-sleeved shirts; Polo shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; T-shirts

EXHIBIT 5

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Current Owner(s) Information

Attorney/Correspondence Information

Prosecution History

TM Staff and Location Information

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S ANSWER to NOTICE OF OPPOSITION has been served on Michael J. MacDermott by mailing said copy on November 25, 2015, via First Class Mail, postage prepaid to:

Michael J. MacDermott
Christie, Parker & Hale, LLP
P.O. BOX 29001
Glendale, CA 91209-9001

By _____
Date _____

William Johnson
Eye Am Geek Clothing Company
4852 Cypress Woods Dr. Apt 136
Orlando, FL 32811