

ESTTA Tracking number: **ESTTA795224**

Filing date: **01/16/2017**

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

Proceeding	91231121
Party	Defendant Kilojoules LLC DBA Kilojoules
Correspondence Address	JURRAN YARBROUGH KILOJOULES LLC 2933 W WILCOX ST CHICAGO, IL 60612 UNITED STATES info@kilojoules.net, jurran@kilojoules4.com
Submission	Answer
Filer's Name	Jurran Yarbrough
Filer's e-mail	info@kilojoules.net
Signature	/s/Jurran Yarbrough
Date	01/16/2017
Attachments	912311Answer to Opp.pdf(124892 bytes)

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

Joules Limited, :
Plaintiff/Opposer, :
v. : Opposition No. 91231121
Kilojoules LLC, :
Defendant/Applicant. :

USPTO
TTAB
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

DEFENDANT'S/AAPPLICANT/S ANSWER TO THE NOTICE OF OPPOSITION

TO THE TRADEMARK TRIAL AND APPEAL BOARD:

Applicant, KILOJOULES LLC, composed of Jurrán Yarbrough, Officer, for its/his answer to the Notice of Opposition filed by JOULES LIMITED against the application for registration of Kilojoules LLC's trademark KILOJOULES, Serial No. 86817992, published 07/12/2016, pleads and avers as follows:

I. Background on KILOJOULES LLC

1. Jurrán Yarbrough, ("Applicant") starting making custom hand made jewelry in or around March of 2012.
2. Jurrán Yarbrough received his BS in Organic Chemistry
3. In an attempt to find a business name for the hand made jewelry, the Applicant wanted to find a name that would be uniquely personal, yet appropriately fitting for his jewelry business.
4. Reaching back to the Applicants roots in the sciences, the Applicant chose the scientific term "Kilojoules."
5. The term "Kilojoule" by definition is a measure of how much energy a human gets from consuming a food or a drink. Energy in food or drinks is measured by the number of

kilojoules it provides. The kilojoule is similar to calorie: 1 kj (kilojoule) = 0.2 Cals (calories). In short the term kilojoules is used to measure energy.

6. The root word “joule” is an energy equal to the energy transferred to (or [work](#) done on) an object when a [force](#) of one [newton](#) acts on that object in the direction of its motion through a distance of one meter.
7. The word “joule” is attributed to James Prescott Joule an English physicist. James Joules studied the nature of heat and its relationship to energy.
8. The Applicant personally throughout life has been big on the “energy” people exude by their physical presence, and wanted to incorporate this in the business name.
9. The applicant decided on “Kilojoules” which in creative way tied in the Applicants science background, the energy people exude, and a play on the word joule for jewelry.
10. The evidence used in the Applicants trademark application (Exhibit A), a product label that also shows a tag line stating, “ENERGIZE YOUR LOOK”

II. ANSWER TO COUNT I – LIKELIHOOD OF CONFUSION - Line 8-14 of the OPPOSITION

11. To line 8, the opposition is malicious and unfounded by facts. There is no confusion in the market.
12. To line 9, the opposition is malicious and unfounded by facts, and Kilojoules does not need permission from Joules Limited to use the Kilojoules mark as does not infringe on the Joules mark and the confusion is unfounded by facts.
13. To line 10, all though the names are similar the confusion in the market is unfounded. The Kilojoules mark and brand are in fact quite different past the similarity in name. Kilojoules is a hand made jewelry business, where as Joules limited based on their website and social media names are a clothing and non-jewelry accessory retail reseller, selling different brands of products. Kilojoules is not a reseller and makes all of its own products under the Kilojoules mark and brand.

14. To line 11, given that confusion is unfounded and that the Kilojules and Joules brand and business are very different, the prior use is not applicable as there are two different marks and brands with focusing on two different market segments. Upon doing further investigation of the Joules and Kilojoules products and brand the claim of confusion is unfounded. The Joules web store is joules.com and the Kilojoules web store is kilojoule4.com.

15. To Line 12, the confusion of the two brands is unfounded and Joules is being malicious in its opposition with the sole purpose of a big business trying to stifle the growth of a small business, when it is obvious that although the names have some similarity our business model, brand, products etc are very different and there is no way confusion can be claimed if consumers research each brands online store and social media sites. The difference is obviously evident.

To Line 13, the claim of confusion and interference is unfounded and unwarranted as Joules and Kilojoules are distinctively two different brands on the market. Kilojoules asserts that Joules Ltd has blindly targeted any organization that has a name similar in spelling or sound to Joules and their opposition continues to be far reaching. Additionally from our research Macy's is or has opposed the Joules mark, which shows that other feel they have no exclusive rights to any name that is similar in sound or spelling to Joules.

16. To Line 14, given the two distinctively different brands and market segments it is unfounded that Joules will incur any damage by the Kilojoules mark and brand. Our products and target market are distinctively different. Kilojoules has worked to create a product and brand of custom handmade jewelry worthy of being worn by reality stars and hip-hop and R&B artist in the United States Joules can not make the same claim that their brand or products are being market to that client base. Given the growth of the Kilojoules brand and some recent appearances on two reality tv shows on Bravo and the Lifetime Channel, Joules would stand to benefit if there were any confusion given the

American celebrities that have chosen to wear and support the Kilojoules brand on television and social media.

WHEREFORE, Kilojoules LLC respectfully asks this Board to reject the Joules opposition to the Kilojoules mark, as the opposition is clearly unfounded, unwarranted, and a clear act of a larger business trying muscle and bully a small business that clearly is distinctly different in the market. Joules should not receive any relief due to this opposition due to its malicious and unfounded claims. Kilojoules LLC is not the only organization that Joules Ltd. has wasted the Board's time with unfounded claims.

Dated: January 16, 2017

By: /s/Jurran Yarbrough
Jurran Yarbrough
Pro Se Applicant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** electronically **mailed** and mailed by first-class mail, postage prepaid, in an envelope addressed to:

[Rachel Jacques](#)
Maschoff Brennan
1389 Center Drive, Suite 300
Park City, UT 84098

rjacques@mabr.com

/s/Jurran Yarbrough
Jurran Yarbrough
Pro Se Applicant