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

Proceeding	91232337
Party	Defendant U Run LLC
Correspondence Address	DANIEL D MAYNARD MAYNARD CRONIN ERICKSON CURRAN & REITER 3200 N CENTRAL AVE STE 1800 PHOENIX, AZ 85012-2438 UNITED STATES dmaynard@mmcec.com, gsipe@mmcec.com
Submission	Answer
Filer's Name	Daniel D. Maynard
Filer's e-mail	smcclellan@mmcec.com
Signature	/Daniel D. Maynard/
Date	02/27/2017
Attachments	Foam Glow - Answer to N-Opposition final.pdf(58545 bytes)

1 Daniel D. Maynard, No. 009211
Douglas C. Erickson, No. 012130
2 **MAYNARD CRONIN ERICKSON**
CURRAN & REITER, P.L.C.
3 3200 North Central Avenue, Suite 1800
Phoenix, Arizona 85012
4 (602) 279-8500

5 Attorneys for Respondent

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

8 In the Matter of
9 Serial No. 86/782657

Opposition No. 91232337

10 YogaGlo, Inc. And Fitness Glo, Inc.,

**ANSWER TO NOTICE OF
OPPOSITION**

11 Opposer,

12 v.

13 U RUN, LLC,

14 Applicant.

15 Cool Events, LLC assignee of U RUN, LLC (“Applicant”) submits its answer to the
16 Notice of Opposition as follows:

17 1. Applicant lacks knowledge or information sufficient to form a belief as to the
18 truth of the allegations of Paragraph No. 1 of the Notice of Opposition, and accordingly denies
19 the same.

20 2. Applicant lacks knowledge or information sufficient to form a belief as to the
21 truth of the allegations of Paragraph No. 2 of the Notice of Opposition, and accordingly denies
22 the same.

23 3. Applicant lacks knowledge or information sufficient to form a belief as to the
24 truth of the allegations of Paragraph No. 3 of the Notice of Opposition, and accordingly denies
25 the same.
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1 4. Applicant lacks knowledge or information sufficient to form a belief as to the
2 truth of the allegations of Paragraph No. 4 of the Notice of Opposition, and accordingly denies
3 the same.

4 5. Applicant lacks knowledge or information sufficient to form a belief as to the
5 truth of the allegations of Paragraph No. 5 of the Notice of Opposition, and accordingly denies
6 the same.

7 6. Applicant lacks knowledge or information sufficient to form a belief as to the
8 truth of the allegations of Paragraph No. 6 of the Notice of Opposition, and accordingly denies
9 the same.

10 7. Applicant lacks knowledge or information sufficient to form a belief as to the
11 truth of the allegations of Paragraph No. 7 of the Notice of Opposition, and accordingly denies
12 the same.

13 8. Applicant lacks knowledge or information sufficient to form a belief as to the
14 truth of the allegations of Paragraph No. 8 of the Notice of Opposition, and accordingly denies
15 the same.

16 9. Applicant lacks knowledge or information sufficient to form a belief as to the
17 truth of the allegations of Paragraph No. 9 of the Notice of Opposition, and accordingly denies
18 the same.

19 10. Applicant lacks knowledge or information sufficient to form a belief as to the
20 truth of the allegations of Paragraph No. 10 of the Notice of Opposition, and accordingly denies
21 the same.

22 11. Applicant lacks knowledge or information sufficient to form a belief as to the
23 truth of the allegations of Paragraph No. 11 of the Notice of Opposition, and accordingly denies
24 the same.

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1 12. Applicant lacks knowledge or information sufficient to form a belief as to the
2 truth of the allegations of Paragraph No. 12 of the Notice of Opposition, and accordingly denies
3 the same.

4 13. The FOAM GLOW mark was filed by William C. Spata on October 8, 2015
5 based upon a first use date of June 12, 2013 under Section 1(a) of the Lanham Act. A
6 Voluntary Amendment was filed on January 19, 2016, to show the correct applicant to be 1N3,
7 LLC. On June 28, 2016, the mark was assigned *nunc pro tunc* by 1N3 to U Run, LLC, said
8 assignment being effective as of September 30, 2015. On January 20, 2016, the mark was
9 assigned *nunc pro tunc* by U Run, LLC to Cool Events, LLC, said assignment being effective
10 December 30, 2016.

11 14. Applicant lacks knowledge or information sufficient to form a belief as to the
12 truth of the allegations of Paragraph No. 14 of the Notice of Opposition, and accordingly denies
13 the same.

14 15. Applicant denies the allegations of Paragraph No. 15 of the Notice of Opposition.

15 16. Applicant denies the allegations of Paragraph No. 16 of the Notice of Opposition.

16 17. Applicant admits the allegations of Paragraph No. 17 of the Notice of Opposition.

17 18. Applicant lacks knowledge or information sufficient to form a belief as to the
18 truth of the allegations of Paragraph No. 18 of the Notice of Opposition, and accordingly denies
19 the same.

20 19. Applicant denies the allegations of Paragraph No. 19 of the Notice of Opposition.

21 20. Applicant admits the allegations of Paragraph No. 20 of the Notice of Opposition.

22 21. Applicant lacks knowledge or information sufficient to form a belief as to the
23 truth of the allegations of Paragraph No. 21 of the Notice of Opposition, and accordingly denies
24 the same. Applicant's mark is used in connection with entertainment events, and include the
25 organizing, arranging, hosting and conducting of running events, providing information
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1 regarding the sport of running and the distribution of electronic newsletters on running and
2 running events.

3 22. Applicant lacks knowledge or information sufficient to form a belief as to the
4 truth of the allegations of Paragraph No. 22 of the Notice of Opposition, and accordingly denies
5 the same. Applicant's services are not specifically health and fitness services. The mark is
6 used in connection with entertainment events, and include the organizing, arranging, hosting
7 and conducting of running events, providing information regarding the sport of running and the
8 distribution of electronic newsletters on running and running events.

9 23. Applicant denies the allegations of Paragraph No. 23 of the Notice of Opposition.

10 24. Applicant denies the allegations of Paragraph No. 24 of the Notice of Opposition.

11 25. Applicant denies the allegations of Paragraph No. 25 of the Notice of Opposition.

12 26. Applicant lacks knowledge or information sufficient to form a belief as to the
13 truth of the allegations of Paragraph No. 26 of the Notice of Opposition, and accordingly denies
14 the same.

15 **Affirmative Defenses**

16 Applicant sets forth the affirmative defenses of laches, estoppel and acquiescence, on
17 the basis that upon information and belief, both parties have been using the term GLOW or
18 GLO. During the course of discovery, Applicant may determine there are grounds for a
19 counterclaim.

20 WHEREFORE, Applicant requests that the Notice of Opposition be dismissed in its
21 entirety, and that FOAM GLOW be allowed to proceed to registration.

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RESPECTFULLY SUBMITTED this 27th day of February, 2017.

**MAYNARD CRONIN ERICKSON
CURRAN & REITER, P.L.C.**

By: /s/Daniel D. Maynard
Daniel D. Maynard
Douglas C. Erickson
3200 North Central Avenue, Suite 1800
Phoenix, Arizona 85012
Attorneys for Applicant

CERTIFICATE OF SERVICE

I, Daniel D. Maynard, hereby certify that a true and correct copy of the foregoing Answer to Notice of Opposition has been served upon the attorney of record for the Opposer identified below via e-mail, on this 27th day of February, 2017:

Rebecca Liebowitz, Esq.
Venable LLP
P.O. Box 34385
Washington, D.C. 20043
Rliebowitz@Venable.com

/s/Daniel D. Maynard
Daniel D. Maynard