

ESTTA Tracking number: **ESTTA820854**

Filing date: **05/15/2017**

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

Proceeding	91233945
Party	Defendant One Technologies, LLC
Correspondence Address	DUSTIN MAUCK REGITZMAUCK PLLC 1700 PACIFIC AVE, SUITE 1280 DALLAS, TX 75201 dustin@regitzmauck.com, mike@regitzmauck.com
Submission	Answer
Filer's Name	Dustin Mauck
Filer's e-mail	dustin@regitzmauck.com
Signature	/Dustin Mauck/
Date	05/15/2017
Attachments	OT Answer to Notice of Opposition 91233945.pdf(114623 bytes)

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

Serial No. 86/943,937
Mark: BETTER CREDIT, BETTER LIFE
Filing Date: March 17, 2016

Progrexion IP, Inc.

Opposer,

v.

One Technologies, LLC,

Applicant.

§
§
§
§
§
§
§
§
§
§
§

Opposition No. 91233945

ANSWER

Applicant One Technologies, LLC, responds to Opposer Progrexion IP, Inc.’s Notice of Opposition (“Opposition”) of Application Serial No. 86/943,937 as follows:

1. Applicant admits the allegations of Paragraph 1 of the Opposition.
2. Applicant admits the allegations of Paragraph 2 of the Opposition.
3. Applicant has insufficient information to admit or deny the accuracy of the allegations of Paragraph 3 of the Opposition, and therefore, denies these allegations.
4. Applicant has insufficient information to admit or deny the accuracy of the allegations of Paragraph 4 of the Opposition, and therefore, denies these allegations. However, Applicant admits that Opposer filed a trademark application with the United States Patent and Trademark Office.

5. Applicant denies the allegations of Paragraph 5 of the Opposition.
6. Applicant denies the allegations of Paragraph 6 of the Opposition.
7. Applicant denies the allegations of Paragraph 7 of the Opposition.
8. Applicant admits the allegations of Paragraph 8 of the Opposition.
9. Applicant denies the allegations of Paragraph 9 of the Opposition.
10. Applicant has insufficient information to admit or deny the accuracy of the allegations of Paragraph 10 of the Opposition, and therefore, denies these allegations.
11. Applicant has insufficient information to admit or deny the accuracy of the allegations of Paragraph 11 of the Opposition, and therefore, denies these allegations.
12. Applicant has insufficient information to admit or deny the accuracy of the allegations of Paragraph 12 of the Opposition, and therefore, denies these allegations.

DEFENSES

13. Applicant has superior rights in the “BETTER CREDIT, BETTER LIFE” mark. Applicant filed the above-referenced trademark application (Serial No. 86/943,937) on March 17, 2016, over seven months prior to Opposer filing its Intent to Use trademark application (Serial No. 87/210,724) on October 20, 2016. In its application, Opposer stated that it had “a bona fide intention” to use the mark in commerce, but did not claim that it was using the mark. Because Applicant may rely upon its filing date to establish priority in an opposition proceeding, Applicant’s application prevails over Opposer’s application.

14. There is no legally sufficient evidence of Opposer’s analogous use and adoption of the “BETTER CREDIT, BETTER LIFE” mark to challenge Applicant’s constructive use priority date of March 17, 2016, the filing date of Applicant’s Intent to Use trademark application (Serial No. 86/943,937).

15. There will be no likelihood of confusion between the marks identified in Applicant's application and Opposer's application. Among other things, the distinct services identified in the two applications, the weakness of Opposer's alleged mark, the lack of actual confusion by consumers, and the degree of care to be exercised by the consumer when purchasing these services suggest that consumer confusion is unlikely.

WHEREFORE, Applicant prays that this Opposition and the relief requested be DENIED and that Applicant's application (Serial No. 86/943,937) be GRANTED a Notice of Allowance.

Dated: May 15, 2017

Respectfully Submitted,

/Dustin M. Mauck/

Dustin M. Mauck, Reg. #57,872

dustin@regitzmauck.com

Michael B. Regitz, Reg. #55,838

mike@regitzmauck.com

RegitzMauck PLLC

1700 Pacific Avenue, Suite 1280

Dallas, Texas 75201

Telephone: (214) 414-3813

Facsimile: (214) 414-3814

COUNSEL FOR APPLICANT
ONE TECHNOLOGIES, LLC

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 John Stringham by forwarding said copy on May 15, 2017, via e-mail to:

John C. Stringham
Workman Nydegger
60 East South Temple, Suite 1000
Salt Lake City, Utah 84111
jstringham@wnlaw.com

/Dustin M. Mauck/
Dustin M. Mauck, Reg.# 57,872