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

Proceeding	91237459
Party	Defendant Malibu Pirates IP Holdings, LLC
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Date	12/04/2017
Attachments	Answer to Notice of Opposition 91237459 .pdf(40331 bytes)

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

IN THE MATTER OF APPLICATION

Mark : MP stylized
Applicant : Malibu Pirates IP Holdings, LLC
Serial No. : 87/286,042
Filed : December 30, 2016
Published in
the Official Gazette : June 27, 2017

VIA ELECTRONIC FILING:
December 4, 2017

Aqua Lung America, Inc.

Opposer

Opposition No. 91237459

v.

Malibu Pirates IP Holdings, LLC

Applicant

ANSWER TO NOTICE OF OPPOSITION

Applicant, Malibu Pirates IP Holdings, LLC (“Applicant”), hereby answers the Notice of Opposition filed by Aqua Lung America, Inc. (Opposer”) as follows:

1. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 1 and, therefore, denies the same.
2. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 2 and, therefore, denies the same.

3. Applicant admits the allegations made in paragraph 3.
4. Applicant admits the allegations made in paragraph 4.
5. Applicant admits the allegations made in paragraph 5.
6. Applicant admits the allegations made in paragraph 6.
7. Applicant admits the allegations made in paragraph 7.
8. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 8 and, therefore, denies the same.
9. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 9 and, therefore, denies the same.
10. Applicant admits the allegations made in paragraph 10.
11. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 11 and, therefore, denies the same.
12. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 12 and, therefore, denies the same.
13. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 13 and, therefore, denies the same.
14. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 14 and, therefore, denies the same.
15. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 15 and, therefore, denies the same.

16. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 16 and, therefore, denies the same.

17. Applicant restates its responses to Paragraphs 1-16.

18. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 18 and, therefore, denies the same.

19. Applicant denies the allegations in Paragraph 19 of the Opposition.

20. Applicant does not have sufficient information to admit or deny any of the allegations made in paragraph 20 and, therefore, denies the same.

21. Applicant denies the allegations in Paragraph 21 of the Opposition.

22. Applicant denies the allegations in Paragraph 22 of the Opposition.

23. Applicant denies the allegations in Paragraph 23 of the Opposition.

First Defense

The Notice of Opposition fails to state a claim on which relief can be granted.

Second Defense

Applicant and Opposer serve different markets with their marks, there is no margin of confusion between the parties' products, nor of the applications or the marking of the products.

Third Defense

Applicant's Mark for which registration is being sought is not likely to cause confusion with Opposers' Mark or products, if any.

WHEREFORE, Applicant prays as follows:

(a) This opposition be dismissed; and

(b) Application Serial No. 87/286042 be registered to the Applicant.

Dated: December 4, 2017

Attorney for Applicant

/Richard L. Hill/

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 4th day of December, 2017, a true copy of the foregoing ANSWER and AFFIRMATIVE DEFENSES was served in the following manner:

VIA FIRST CLASS MAIL

Matthew D. Murphy
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AND VIA EMAIL

Matthew.murphy@troutman.com

/s/ Ron Thurman

CERTIFICATE OF ELECTRONIC FILING

The undersigned certifies that this submission is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals (ESTTA) on this 4th day of December, 2017.

Attorney for Applicant

/Richard L. Hill/

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