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

Proceeding	91238139
Party	Defendant Lagree Technologies, Inc.
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Date	04/20/2018
Attachments	2018-04-20 Answer to Amended Opposition LAGR-154.pdf(389595 bytes)

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

Coreology, Inc.,)	
)	<u>Consolidated</u>
Opposer,)	Opposition No. 91236668 (Parent)
)	Opposition No. 91236940
v.)	Opposition No. 91236942
)	Opposition No. 91237249
Lagree Technologies, Inc.,)	Opposition No. 91238139
)	
Applicant.)	

**ANSWER TO SECOND AMENDED NOTICE OF OPPOSITION
IN OPPOSITION NO. 91238139**

Applicant, Lagree Technologies, Inc. (“Applicant”), hereby replies to the numbered grounds for opposition set forth in Opposer’s Second Amended Notice of Opposition in Opposition No. 91238139 as follows:

UNNUMBERED PARAGRAPH. With respect to the first unnumbered paragraph on page 1 of the Second Amended Notice of Opposition, Applicant denies that Opposer will be damaged by the registration of the mark SPIDER LUNGE in International Class 041 as shown in U.S. Trademark Application Serial No. 87/507,864. With respect to the remaining allegations of the first unnumbered paragraph on page 1 of the Second Amended Notice of Opposition, Applicant is without knowledge or information sufficient to form a belief as the truth of the remaining allegations of this paragraph, and thus denies the same.

1. With respect to Paragraph 1, Applicant admits that U.S. Trademark Application Serial No. 87/507,864 for the mark SPIDER LUNGE was filed on June 27,

2017 and is assigned to Lagree Technologies, Inc. Applicant denies any remaining allegations of Paragraph 1.

2. With respect to Paragraph 2, Applicant admits that U.S. Trademark Application Serial No. 87/507,864 seeks registration of the mark SPIDER LUNGE for the following class: IC 041. US 100 101 107. G & S: Providing fitness classes, workouts, training, and exercise routine. Applicant denies any remaining allegations of Paragraph 2.

3. With respect to Paragraph 3, Applicant admits the allegations of this paragraph.

4. With respect to Paragraph 4, Applicant admits the allegations of this paragraph.

5. With respect to the first sentence of Paragraph 5, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations therein, and thus denies the same. With respect to the second sentence of Paragraph 5, Applicant denies the allegations therein.

6. With respect to Paragraph 6, Applicant denies the allegations of this paragraph.

7. With respect to Paragraph 7, Applicant denies the allegations of this paragraph.

8. With respect to Paragraph 8, Opposer appears to be stating a legal opinion. To the extent that a response is necessary, Applicant denies the allegations of this paragraph.

9. With respect to Paragraph 9, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and thus denies the same.

10. With respect to Paragraph 10, Applicant admits that Applicant alleged unauthorized usage by Opposer of certain trademarks in Opposer's training manual in an email dated April 25, 2017. Applicant denies any remaining allegations of this paragraph.

11. With respect to the first sentence of Paragraph 11, Applicant admits the allegations therein. With respect to the second sentence of Paragraph 11, Applicant admits that Applicant uses the term "SPIDER LUNGE" with respect to the services recited in IC 041, and denies the remaining allegations therein.

12. With respect to Paragraph 12, Applicant denies the allegations of this paragraph.

13. With respect to Paragraph 13, Applicant denies the allegations of this paragraph.

14. With respect to Paragraph 14, Applicant denies the allegations of this paragraph.

15. With respect to Paragraph 15, Applicant denies the allegations of this paragraph.

16. With respect to Paragraph 16, Applicant denies the allegations of this paragraph.

17. With respect to Paragraph 17, Applicant denies the allegations of this paragraph.

GENERAL DENIAL

Except only as expressly admitted above, Applicant denies each and every allegation of the Second Amended Notice of Opposition.

AFFIRMATIVE DEFENSES

Applicant asserts that the following affirmative defenses bar Opposer's requested relief in its Second Amended Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE

The Second Amended Notice of Opposition fails, in whole or in part, to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Second Amended Notice of Opposition is barred, in whole or in part, under principles of unclean hands.

THIRD AFFIRMATIVE DEFENSE

The Second Amended Notice of Opposition is barred, in whole or in part, by the equitable defense of estoppel.

FOURTH AFFIRMATIVE DEFENSE

The opposition is barred, in whole or in part, on the grounds that Coreology, Inc. lacks standing to oppose the registration of SPIDER LUNGE for "providing fitness

classes, workouts, training, and exercise routine”. The Opposer does not have a direct and personal stake in the outcome of the proceedings. Opposer is an intermeddler who would not be damaged by the registration of the Applicant’s mark.

FIFTH AFFIRMATIVE DEFENSE

The opposition brought by Opposer is frivolous. Opposer filed the present opposition not to establish an equal or superior right to use the mark, but as a tactic in its negotiations with Applicant to acquire rights to other intellectual property owned by Applicant. The grounds for cancellation in the Second Amended Notice of Opposition are baseless and being presented for improper purposes, including harassing Applicant, and needlessly driving up its costs in attorney’s fees.

SIXTH AFFIRMATIVE DEFENSE

Opposer has no reasonable basis to inconsistently allege that Applicant’s trademark SPIDER LUNGE is descriptive or deceptively misdescriptive.

SEVENTH AFFIRMATIVE DEFENSE

Opposer knows that SPIDER LUNGE is not generic, descriptive or deceptively misdescriptive. Opposer has no evidence to support their claims that SPIDER LUNGE is generic, descriptive and/or deceptively misdescriptive.

WHEREFORE, Applicant generally denies that Opposer would be damaged by Applicant's registration of the mark SPIDER LUNGE and respectfully requests that the Board dismiss the Opposer's opposition and grant registration to the subject mark.

Date: April 20, 2018

Respectfully submitted,

/Michael S. Neustel/

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ATTORNEYS FOR APPLICANT

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **ANSWER TO SECNOD AMENDED NOTICE OF OPPOSITION IN OPPOSITION NO. 91238139** was served upon Opposer's counsel via electronic mail at the following address:

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Date: April 20, 2018

Respectfully submitted,

/Jason L. Gilbert/

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