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Filing date: **05/29/2018**

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

Proceeding	91238680
Party	Defendant Unavoo Food Technologies Ltd.
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Date	05/29/2018
Attachments	Answer to Opposition re the EVOLVE Application - Ser. No. 86953352.pdf(10855 bytes)

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

In the Matter of Application Serial No. 86953352
Filed: March 25, 2016
Published in the *Official Gazette* on July 4, 2017
For the mark: EVOLVE

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CYTOSPORT, INC.,	:	
	:	
<i>Opposer,</i>	:	OPPOSITION NO.: 91238680
	:	
v.	:	
	:	
UNAVOO FOOD TECHNOLOGIES LTD,	:	
	:	
<i>Applicant.</i>	:	
	:	
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ANSWER TO NOTICE OF OPPOSITION

Applicant Unavoo Food Technologies Ltd. (“Applicant”), by and through its undersigned counsel, hereby answers the Notice of Opposition filed by CytoSport, Inc. (“Opposer”) against Applicant’s application to register the word mark EVOLVE, identified in Application Serial No. 86953352 (“Applicant’s EVOLVE Mark”) in International Classes 29, 30 and 32, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1, and accordingly denies such allegations.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2, and accordingly denies such allegations.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3, and accordingly denies such allegations.

4. Applicant admits the allegations in Paragraph 4.
5. Applicant admits the allegations in Paragraph 5.
6. Applicant admits the allegations in Paragraph 6.
7. Applicant admits the allegations in Paragraph 7.
8. Applicant admits the allegations in Paragraph 8.
9. Applicant admits the allegations in Paragraph 9 (incorrectly numbered as Paragraph 6).
10. In response to the allegations in Paragraph 10 (incorrectly numbered as Paragraph 7), Applicant denies that it filed the Subject Application on July 4, 2017, and states that Earthbound LLC filed the Subject Application, on an intent-to-use basis, on March 25, 2016.
11. Applicant admits the allegations in Paragraph 11 (incorrectly numbered as Paragraph 8).
12. In response to the allegations in Paragraph 12 (incorrectly numbered as Paragraph 9), Applicant admits that the Subject Goods are listed in the Subject Application, but denies that the Subject Goods are closely related to the goods in Opposer's identified registrations and applications.
13. Applicant denies the allegation in Paragraph 13 (incorrectly numbered as Paragraph 10).

FIRST AFFIRMATIVE DEFENSE

The Notice of Opposition fails to state a claim upon which relief may be granted.

PRAAYER FOR RELIEF

WHEREFORE, Applicant respectfully prays that the Board dismiss the Opposition and grant registration of Applicant's EVOLVE Mark on the Principal Register in International Classes 29, 30 and 32.

Dated: May 29, 2018

Respectfully submitted,

ARNOLD & PORTER KAYE SCHOLER LLP

By: /Louis S. Ederer/

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*Attorneys for Applicant
Unavoo Food Technologies Ltd.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 29, 2018 a copy of the foregoing
ANSWER TO NOTICE OF OPPOSITION was served by First Class Mail upon the following
counsel of record for CytoSport, Inc.:

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CytoSport, Inc.*

/Louis S. Ederer/
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