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

Proceeding	91239962
Party	Defendant Humu, Inc.
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Date	05/21/2018
Attachments	Humu Answer to NOO by Hulu.pdf(34874 bytes)

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

In the Matter of Application Serial Nos. 87/433,012, 87/433,020, and 87/433,022
For the Trademark HUMU
Filed: May 2, 2017

Hulu, LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91239962
)	
Humu, Inc.,)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

Applicant Humu, Inc. (“Applicant”), by and through its attorneys, denies that Opposer Hulu, LLC (“Opposer”) will be damaged by the registration of the HUMU mark as set forth in U.S. Trademark Application Serial Nos. 87/433,012, 87/433,020, and 87/433,022 (the “Applications”) and hereby answers the Notice of Opposition as follows.

A. Opposer Hulu, LLC

1. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 1 and, on that basis, denies them.
2. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 2 and, on that basis, denies them.
3. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 3 and, on that basis, denies them.
4. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 4 and, on that basis, denies them.

5. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 5 and, on that basis, denies them.

6. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 6 and, on that basis, denies them.

7. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 7 and, on that basis, denies them.

8. Applicant denies Opposer's allegation that the HULU Marks are famous. Applicant lacks sufficient information to admit or deny the remaining factual allegations contained in Paragraph 8 and, on that basis, denies them.

9. Applicant admits that the PTO's Trademark Status & Document Retrieval ("TSDR") records currently identify Opposer as the registrant of U.S. Registration No. 3878144, and that no further response is necessary because the TSDR record speaks for itself. Applicant further admits that Exhibit A appears to be a true and correct copy of a printout from the TSDR database.

10. Applicant admits that the PTO's Trademark Status & Document Retrieval ("TSDR") records currently identify Opposer as the registrant of U.S. Registration No. 4129912, and that no further response is necessary because the TSDR record speaks for itself. Applicant further admits that Exhibit B appears to be a true and correct copy of a printout from the TSDR database.

11. Applicant admits that the PTO's Trademark Status & Document Retrieval ("TSDR") records currently identify Opposer as the registrant of U.S. Registration No. 4317326, and that no further response is necessary because the TSDR record speaks for itself. Applicant further admits that Exhibit C appears to be a true and correct copy of a printout from the TSDR

database.

12. Applicant admits that the PTO's Trademark Status & Document Retrieval ("TSDR") records currently identify Opposer as the registrant of U.S. Registration No. 4614054, and that no further response is necessary because the TSDR record speaks for itself. Applicant further admits that Exhibit D appears to be a true and correct copy of a printout from the TSDR database.

13. Applicant admits that the PTO's Trademark Status & Document Retrieval ("TSDR") records currently identify Opposer as the registrant of U.S. Registration No. 4649516, and that no further response is necessary because the TSDR record speaks for itself. Applicant further admits that Exhibit E appears to be a true and correct copy of a printout from the TSDR database.

14. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 14 and, on that basis, denies them.

15. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 15 and, on that basis, denies them.

16. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 16 and, on that basis, denies them.

17. Applicant admits that Exhibit F appears to be a screenshot of a post made on Facebook, which speaks for itself. Applicant further admits that Exhibit G appears to be a screenshot of Google keyword search results for the term "Hulu" taken on an unspecified date. Applicant lacks sufficient information to admit or deny the remaining factual allegations contained in Paragraph 17 and, on that basis, denies them.

18. Applicant lacks sufficient information to admit or deny the factual allegations

contained in Paragraph 18 and, on that basis, denies them.

19. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 19 and, on that basis, denies them.

20. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 20 and, on that basis, denies them.

21. Applicant denies that the HULU Marks are famous. Applicant lacks sufficient information to admit or deny the remaining factual allegations contained in Paragraph 21 and, on that basis, denies them.

22. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 22 and, on that basis, denies them.

23. Applicant denies the allegations in Paragraph 23.

B. Applicant Humu, Inc.

24. Applicant admits the allegations in Paragraph 24.

25. Applicant admits the allegations in Paragraph 25.

26. Applicant admits the allegations in Paragraph 26.

27. Applicant admits the allegations in Paragraph 27.

25. Applicant admits the allegations in Paragraph 25 (*sic*).

25. Applicant admits the allegations in Paragraph 25 (*sic*).

25. Applicant admits the allegations in Paragraph 25 (*sic*).

29. Applicant admits the allegations in Paragraph 29 (*sic*).

30. Applicant lacks sufficient information to admit or deny the factual allegations contained in Paragraph 30 (*sic*) regarding the Opposer's mark(s) and, on that basis, denies them.

C. **Opposer's Claims Against the Applications**

COUNT I
LIKELIHOOD OF CONFUSION

31. Applicant hereby incorporates as though fully set forth herein its responses to the above allegations.

32. Applicant denies the allegations in Paragraph 32.

33. Applicant denies the allegations in Paragraph 33.

34. Applicant admits that the HUMU mark appears on Applicant's website in the form reflected on Applicant's website, which speaks for itself. Applicant denies all remaining allegations in Paragraph 34, including the accuracy of the image that purportedly depicts Applicant's HUMU mark.

35. Applicant denies the allegations in Paragraph 35.

36. Applicant denies the allegations in Paragraph 36.

37. Applicant denies the allegations in Paragraph 37.

38. Applicant denies the allegations in Paragraph 38.

39. Applicant denies the allegations in Paragraph 39.

40. Applicant denies the allegations in Paragraph 40.

41. Applicant denies the allegations in Paragraph 41.

COUNT II
DILUTION

42. Applicant hereby incorporates as though fully set forth herein its responses to the above allegations.

43. Applicant denies the allegations in Paragraph 43.

44. Applicant denies the allegations in Paragraph 44.

45. Applicant denies the allegations in Paragraph 45.
46. Applicant denies the allegations in Paragraph 46.
47. Applicant denies the allegations in Paragraph 47.
48. Applicant denies the allegations in Paragraph 48.

Except as expressly stated above, Applicant denies any and all other allegations contained in the Notice of Opposition.

AFFIRMATIVE DEFENSES

In addition to the Answer set forth above, Applicant asserts the following affirmative defense without assuming the burden of proof of such defenses that would otherwise fall on the Opposer.

FIRST AFFIRMATIVE DEFENSE

(FAILURE TO STATE A CLAIM FOR LIKELIHOOD OF CONFUSION)

1. Opposer has failed to allege a plausible claim that confusion between the parties' marks is likely because, among other things, Opposer has failed to allege how Applicant's goods and services relating to employee feedback and human resources data can in any way be construed as being similar to, or overlapping with, Opposer's goods and services in the entertainment field relating to streaming motion picture films and television programming.

SECOND AFFIRMATIVE DEFENSE

(FAILURE TO STATE A CLAIM FOR DILUTION BY BLURRING OR TARNISHMENT)

2. Opposer has failed to state a claim for dilution upon which relief can be granted because Opposer has failed to plead sufficient facts to make it plausible that, among other things, (a) Opposer's marks are "famous" within the meaning of the Federal Trademark Dilution Revision Act of 2006, (b) Applicant's mark in the human resources and personnel management field can

operate to weaken the connection between Opposer's pleaded marks and goods and services relating to streaming motion picture films and television programming content, and (c) Applicant's goods and services are in any way unsavory or unwholesome such that tarnishment of any kind is remotely plausible.

Applicant bases its affirmative defenses on the knowledge and information currently available to it. Applicant reserves its right to assert additional affirmative defenses in the event that further discovery or investigation indicates such defenses are appropriate.

WHEREFORE, Applicant requests that the Opposition be dismissed in its entirety and that the Applications for the HUMU Mark be allowed for registration.

Date: May 21, 2018

/s/ Chantal Z. Hwang

Chantal Z. Hwang

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Counsel for Applicant Humu, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** was served on Opposer Hulu, LLC on the date set forth below by email to Opposer's counsel at the email addresses below.

tmango@cantorcolburn.com
vricci@cantorcolburn.com

Date: May 21, 2018

/Victoria Bocek/

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