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Filing date: **07/12/2018**

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

Proceeding	91240810
Party	Plaintiff Askov Holdings, LLC
Correspondence Address	STEPHEN R BAIRD WINTHROP & WEINSTINE PA 225 SOUTH 6TH ST, CAPELLA TOWER STE 3500 MINNEAPOLIS, MN 55402 UNITED STATES Email: sbaird@winthrop.com, dweseman@winthrop.com, jbriley@winthrop.com, trademark@winthrop.com
Submission	Answer to Counterclaim
Filer's Name	Draeke H. Weseman
Filer's email	trademark@winthrop.com, sbaird@winthrop.com, dweseman@winthrop.com, jbriley@winthrop.com
Signature	/DHW/
Date	07/12/2018
Attachments	Answer to Counterclaim - N10RTH - 15751740_1.pdf(132602 bytes)

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

In the matter of Application Serial No.: 87/458,572

Filed: May 22, 2017

For the mark: **NORTH**

Published in the *Trademark Official Gazette* on October 24, 2017

Askov Holdings, LLC ,

Opposer,

v.

Opposition No. 91240810

Our Life 2.5 LLC,

Applicant.

ANSWER TO COUNTERCLAIM

Opposer and Counterclaim Defendant Askov Holdings, LLC (“**Opposer**”), through undersigned counsel, hereby answers the counterclaim filed on June 4, 2018 by Our Life 2.5 LLC (“**Applicant**”):

1. Paragraph 38 of Applicant’s counterclaim contains matter that is inappropriate for a counterclaim because it “repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth [in the counterclaim]”, thus including duplicate denials of allegations in the Notice of Opposition and affirmative defenses to the Notice of Opposition. To the extent such allegations have any bearing or relevance to the counterclaim filed by Applicant, the duplicative allegations and affirmative defenses of Paragraph 38 are unnecessary and redundant and should be stricken by the Board *sua sponte*.¹ To the extent such allegations

¹ Pursuant to Fed. R. Civ. P. 12(f), upon its own initiative, the Board may order stricken from a pleading any . . . redundant, immaterial, or impertinent matter. *See also* Trademark Rule 2.116(a), 37 C.F.R. § 2.116(a); and TMBP § 506.01 (2018).

could form separate grounds for additional counterclaim(s) other than the actual counterclaim to cancel Reg. No. 5,226,141 filed by Applicant in paragraphs 39 through 46 of Applicant's counterclaim, Applicant has not provided Opposer fair notice of any such counterclaims(s) or timely filed in regards thereto² or paid required fees therefor.³ Any remaining allegations of Paragraph 38 of Applicant's counterclaim are hereby denied.

2. The allegations of Paragraph 39 of Applicant's counterclaim are denied.
3. The allegations of Paragraph 40 of Applicant's counterclaim are denied.
4. The allegations of Paragraph 41 of Applicant's counterclaim are denied.
5. The allegations of Paragraph 42 of Applicant's counterclaim are denied.
6. The allegations of Paragraph 43 of Applicant's counterclaim are denied.
7. The allegations of Paragraph 44 of Applicant's counterclaim are denied.
8. The allegations of Paragraph 45 of Applicant's counterclaim are denied.
9. The allegations of Paragraph 46 of Applicant's counterclaim are denied.

WHEREFORE, Opposer prays that Applicants counterclaim be dismissed with prejudice.

Dated: July 12, 2018

WINTHROP & WEINSTINE, P.A.

_____/DHW/_____
Stephen R. Baird
Draeke H. Weseman
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402
(612) 604-6400 (Telephone)
(612) 604-6800 (Facsimile)

*Attorneys for Opposer
and Counterclaim Defendant*

² See TMBP § 313.01

³ See *id.* § 313.02

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Counterclaim has been served on counsel for Applicant by forwarding said copy on July 12, 2018, via email to:

tmmail@patentco.com

bwilson@patentco.com

bwhitten@patentco.com

___/DHW/_____
Draeke H. Weseman