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

Proceeding	91242661
Party	Defendant Phinge Corporation
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Submission	Answer
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Date	09/04/2018
Attachments	9.4.18 Answer to Notice of Opposition (Friendle).pdf(70388 bytes)

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

In re Trademark Application of:
Applicant: Phinge Corporation
Serial No.: 87808034
Filed: February 22, 2018
Published: June 26, 2018
Mark: FRIENDLE

FRENDLI, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91242661
)	
PHINGE CORPORATION,)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

The following is the Answer of Applicant Phinge Corporation (“Phinge” or “Applicant”), owner of Federal Trademark Application Serial No. 87808034 for the mark FRIENDLE (hereinafter “Applicant’s Mark”) to the Notice of Opposition filed on July 26, 2018 by Frendli, Inc. (hereinafter “Opposer”), and assigned Opposition No. 91242661.

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.

6. Denied, as Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 6 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.
7. Denied, as Applicant is without knowledge or information sufficient to form a belief as to Opposer's date of first use for the FRENDLI mark and name and the truth of allegations contained in paragraph 7 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.
8. Denied, as Applicant is without knowledge or information sufficient to form a belief as to Opposer's standing for the FRENDLI mark and the truth of allegations contained in paragraph 8 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.
9. Denied, as Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 9 of the Notice of Opposition, specifically whether Opposer is the senior user of the mark FRENDLI. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.
10. Denied, as Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 10 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.
11. Denied, as Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 11 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

12. Denied, as Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 12 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

13. Denied.

FURTHERMORE, Applicant sets forth the following in support of its position:

14. Applicant's mark FRIENDLE is unique and distinctive.

15. The spelling of Applicant's mark and Opposer's mark is different.

16. The pronunciation of Applicant's mark and Opposer's mark is different. Applicant's mark is pronounced like the words "candle" or "handle" whereas Opposer's mark is pronounced like "friendly."

17. Applicant has a second, related application for PHRIENDLE (Serial No. 87815667) for which a Notice of Allowance (NOA) was issued on August 21, 2018.

18. Applicant has an additional, related application for mark FRIENDEL (Serial No. 87808063) for which a Notice of Allowance (NOA) was issued on August 21, 2018.

19. Opposer's mark has already been rejected by the USPTO both because of Applicant's filing in class 35 referenced herein as well as the registered trademark for FRIENDLY in class 9 (Serial No. 87268936 filed December 14, 2016 and granted on June 5, 2018, Regis. No. 5483603). So even if Opposer were to prevail in the current Opposition to the registration of Applicant's mark FRIENDLE, it would seem they would be blocked from use of the mark FRENDLI due to issues with the overlap between classes 9 and 35 and the preexisting registration of the FRIENDLY mark.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER TO NOTICE OF OPPOSITION has been served on the counsel for Opposer by forwarding said copy on September 4, 2018 via email to Michelle L. Mehok at Pillsbury Winthrop Shaw Pittman LLP, 12255 El Camino Real, Suite 300, San Diego, CA 92130 using both michelle.mehok@pillsburylaw.com and Docket_ip@pillsburylaw.com.

Signature /robert demaio/ Date September 4, 2018

Robert DeMaio, President

CERTIFICATE OF FILING

I hereby certify that an electronic copy of Applicant's ANSWER TO NOTICE OF OPPOSITION was electronically filed in the United States Patent and Trademark Office before the Trademark Trial and Appeal Board Electronic Filing System.

Signature /robert demaio/ Date September 4, 2018

Robert DeMaio, President