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

Proceeding	91245529
Party	Plaintiff DSM IP Assets B.V.
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Attachments	4662-3720 opposer reply to applicant alleged corrected extension motion - 16 june 2020.pdf(30398 bytes)

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_____)	
DSM IP Assets B.V.)	
)	
Opposer)	
)	
v.)	Opposition No. 91245529
)	Application No. 87891972
HHEALTH Inc.)	
)	
Applicant)	
_____)	

OPPOSER’S REPLY TO APPLICANT’S **CORRECTED MOTION TO EXTEND TIME TO RESPOND TO OPPOSER’S CROSS-MOTION FOR SUMMARY JUDGMENT or MOTION FOR DISCOVERY OF APPLICANT UNDER RULE 56(d)**

Opposer replies to Applicant’s Corrected Motion filed on June 16, 2020 [TTABVUE 17], as follows.

First, Opposer stands by its Reply filed on June 8, 2020 [TTABVUE 16], in response to Applicant’s Motion for Extension filed on May 18, 2020 [TTABVUE 15].

Second, Opposer respectfully requests that the Board stop the Applicant’s “shell game” and enter judgment against the Applicant in view of these filings by the Applicant:

1. **The first shell – the UK company**: Applicant filed its application on April 25, 2018. The application and its declaration were signed by "Du Ruiyong" as President of HHEALTH INC. In the application, Du Ruiyong declared that **HHEALTH INC. is a limited company (ltd.) legally organized under the laws of the United Kingdom, and having an address of 8 The Green, STER, Dover, Kent, 19901 United Kingdom.** As stated in Opposer’s Notice of Opposition, this **UK company** information is false. [TTABVUE 1 at ¶2]

2. **The first shell confirmed – the UK company:** During prosecution of the application, the USPTO examining attorney questioned the applicant whether it was a United Kingdom company. See the USPTO Office Action dated August 24, 2018. In the “Response to Office Action” dated September 3, 2018, the Applicant’s president, Du Ruiyong, stated that the Applicant is "**HHEALTH INC., limited liability company legally organized under the laws of United Kingdom, having an address of 8 The Green,STER,Dover, Kent,, 19901 United Kingdom daisy.futianguoji@foxmail.com(authorized).**" As stated in Opposer’s Notice of Opposition, this **UK company** information is false. [TTABVUE 1 at ¶3]

3. **The second shell – the US company:** After the Notice of Opposition was filed, Applicant admitted that it was **not a UK company** and moved to amend its application to identify a **US company** as the Applicant on February 4, 2019. [TTABVUE 5] Opposer opposed that Motion. Significantly, Applicant’s Motion papers did not include any declaration from (1) the Applicant’s president Du Ruiyong, or (2) some other person who was filing documents at the USPTO and has the email address **daisy.futianguoji@foxmail.com**, or (3) Wei Li who was identified by the Applicant in the Correspondence Information in the USPTO database at the time:

“WEI LI
C/O WEI LI PO BOX521476,FLUSHING,NY,
FLUSHING,, New York 11352
718-416-5030(phone)”

The Board deferred ruling on the motion to amend the application to identify a **US company** as the Applicant. [TTABVUE 8]

4. **The third shell – the Chinese company:** After Opposer filed its Cross-Motion for Summary Judgment, the Applicant filed a Motion to Extend its reply deadline by 60 days.

[TTABVUE 15] In that Motion to Extend filed on May 18, 2020, Applicant claimed to be a **Chinese company**, which Opposer believes is false. Again, Applicant did not file any declaration in support of its Motion or contentions. Opposer replied the Motion on June 8, 2020.

[TTABVUE 16]

5. **Back to the first shell – the UK company**: On June 16, 2020 (eight days after Opposer replied to the Motion to Extend filed on May 18), Applicant filed a Corrected Motion, wherein Applicant has reverted to claiming it is a **U.K. company with some decision makers having deep ties to China and/or located in China**” (emphasis added, and coloring changed).

[TTABVUE 17] There is no mention of a **US company**. Again, Applicant did not file any declaration in support of its Motion or contentions.

Which shell contains the truth? On the date that Applicant filed its US trademark application, was the Applicant a **UK company**, a **US company**, or a **Chinese company**?

The U.S. trademark registration system is founded upon a system of honest and fair dealings with the U.S. Patent and Trademark Office.

Opposer respectfully requests that the Board stop the Applicant’s “shell game” and enter judgment against the Applicant in view of the Applicant’s own filings noted above and Opposer’s Cross-Motion for Summary Judgment.

Date: June 17, 2020 Respectfully submitted,

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ATTORNEYS FOR OPPOSER,
DSM IP Assets B.V.

Certificate of Service

I hereby certify that a true and accurate copy of the foregoing will be served on Applicant's U.S. attorney of record M. Scott Alprin on this date by email to: trademarks@alprinlaw.com.