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

Proceeding	91245619
Party	Defendant Shenzhen Bell Creative Science and Education Co., Ltd.tion Co., Ltd.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Textron Innovations Inc.,)	
)	Opposition No.: 91245619
Plaintiff/Opposer,)	Application Serial No.: 87/528,838
)	Mark: BELLROBOT
v.)	Published: July 10, 2018
)	
Shenzhen Bell Creative Science and Education Co., Ltd.)	
)	
Defendant/Applicant.)	
)	
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)	
)	
)	

Trademark Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

For online submission via ESTTA

**ANSWER AND AFFIRMATIVE DEFENSES OF SHENZHEN BELL CREATIVE
SCIENCE AND EDUCATION CO., LTD.**

Defendant/Applicant Shenzhen Bell Creative Science and Education Co., Ltd. (“Applicant”), a limited company of China, located at Rm 902, S. Block, Yuanxing Tech. Bldg. No.1, Songpingshan Road, Nanshan Dist., Shenzhen, China 518057, submits its Answer and Affirmative Defenses to Textron Innovations Inc.’s (“Opposer”) Notice of Opposition filed on January 4, 2019. Applicant denies the allegations and characterizations in Opposer’s Notice of Opposition unless expressly admitted in the following paragraphs:

ANSWER

With respect to the numbered paragraphs of Opposer's Notice of Opposition, Applicant answers using corresponding paragraph numbers as follows:

1. Paragraph 1 states legal conclusions as to which no response is required. Applicant lacks information or knowledge sufficient to form a belief as to the truth or falsity of the averments of Paragraph 1, particularly as to the adoption, continuous use of the word "BELL" in whole or in part as a trademark for a wide range of goods and services including goods and services in Class 41, and therefore denies each and every averment contained therein.

2. Applicant admits Trademark Registration Numbers 0937437; 2883983; 3141636; 3141642; 3123717; 3217097; 3205268; 3221574; 3287862; 3301792; 4482293; 4476030; 4641726; 4625475; 4625476; 4556721; 5338836 speak for themselves. Paragraph 2 states legal conclusions as to which no response is required. Applicant lacks information or knowledge sufficient to form a belief as to the truth or falsity of the averments of Paragraph 2, particularly as to the ownership and validity of the Trademark Registration Numbers 0937437; 2883983; 3141636; 3141642; 3123717; 3217097; 3205268; 3221574; 3287862; 3301792; 4482293; 4476030; 4641726; 4625475; 4625476; 4556721; 5338836, and therefore denies them.

3. Applicant admits that it seeks federal registration of its mark BELLROBOT for the services listed in its Application Serial No.: 87/528,838.

4. Paragraph 4 states legal conclusions as to which no response is required Applicant lacks information or knowledge sufficient to form a belief as to the truth or falsity of the averments of Paragraph 4, and therefore denies each and every averment contained therein.

5. Denied.

6. Paragraph 6 states legal conclusions as to which no response is required. Applicant lacks information or knowledge sufficient to form a belief as to the truth or falsity of the averments of Paragraph 6, particularly that Opposer's marks are famous and distinctive and that Applicant's mark will dilute the capacity of Opposer's marks, and therefore denies each and every averment contained therein.

With respect to Opposer's request for relief, Applicant denies that Opposer is entitled to having this Opposition sustained and further denies that Opposer is entitled to having the registration of Applicant's Application No. 87/528,838 denied.

Applicant respectfully requests the Board to dismiss the Opposition with prejudice.

AFFIRMATIVE DEFENSES


Applicant undertakes the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated below. Applicant, as affirmative defenses to the Notice of Opposition, pleads as follows:

1. Applicant affirmatively alleges that the Notice of Opposition fails to state facts sufficient to constitute a claim upon which relief can be granted.

2. Applicant affirmatively alleges that there is no likelihood of confusion, mistake or deception.

3. Applicant affirmatively alleges that there is no likelihood of confusion, mistake or deception with respect to Applicant's services as set forth in the Application and any and all of the Opposer's goods and services.

4. Applicant affirmatively alleges that Opposer's marks are so dissimilar to the Applicant's mark that there is no likelihood of confusion as to the source of the goods or services to any purchasers.

5. Applicant affirmatively alleges that Applicant's mark BELLROBOT looks entirely different in appearance from the Opposers' BELL and  marks.

6. Applicant affirmatively alleges that Applicant's mark and Opposer's pleaded marks are not confusingly similar at least because of the different appearances, connotations, sounds and the overall different commercial impressions between the marks.

7. Applicant affirmatively alleges that the services rendered under the Applicant's mark do not travel through the same channels of trade as the Opposer's pleaded marks.

8. Applicant affirmatively alleges that there is no likelihood of confusion because Opposer's customers are sophisticated aviation enthusiasts.

9. Applicant affirmatively alleges that both Applicant and the Opposer operate in different fields of business avoiding any likelihood of confusion.

10. Applicant affirmatively alleges that the services listed Applicant's mark are not related to any and all of Opposer's marks.

11. Applicant affirmatively alleges that *“aircraft; namely, airborne vehicles that derive support from the atmosphere, specifically helicopters, and air cushion vehicles; namely, airborne vehicles that derive support from the reaction of a cushion of air against the earth's surface and are incapable of flight without the support of such cushion”* in International Class 12 as listed in Opposer's Registration No. 0937437 are not related to Applicant's International Class 41 services found in its Application Serial No.: 87/528,838.

12. Applicant affirmatively alleges that “*aircraft, helicopters and structural parts therefor*” in International Class 12 as listed in Opposer’s Registration No. 2883983 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

13. Applicant affirmatively alleges that “*providing customer support services in the field of aviation*” in International Class 35 as listed in Opposer’s Registration No. 2883983 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

14. Applicant affirmatively alleges that “*educational and training services, namely, conducting classes, workshops and seminars in the field of aviation*” in International Class 41 as listed in Opposer’s Registration No. 2883983 are not related to Applicant’s International Class 41 services “*Arranging professional workshop and training courses in the field of exercise, fitness, game, toys and robots; Education services, namely, providing tutoring in the fields of exercise, fitness, games, toys and robots; Educational services, namely, conducting classes, seminars, conferences and workshops in the field of exercise, fitness, games, toys and robots; Entertainment services, namely, providing brain training games on-line and in mobile wireless form; Entertainment services, namely, providing on-line computer games; Games equipment rental; Gymnastic instruction; Production and distribution of monoscopic and stereoscopic, electronic, digital video and film; Production and distribution of videos in the field of exercise, fitness, games, toys and robots; Publication of books; Scriptwriting services for non-advertising purposes; Toy rental*” found in its Application Serial No.: 87/528,838.

15. Applicant affirmatively alleges that “*ornamental lapel pins*” in International Class 14 as listed in Opposer’s Registration No. 3141636 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

16. Applicant affirmatively alleges that “*ornamental lapel pins*” in International Class 14 as listed in Opposer’s Registration No. 3141642 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

17. Applicant affirmatively alleges that “*pens, letter openers, CD case openers, holders for notepads, document portfolios, calendars, calendar stands, decals, paperweights, desktop business card holders, desk stands and holders for pens, photo albums, photo storage boxes, posters, and notebooks*” in International Class 16 as listed in Opposer’s Registration No. 3123717 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

18. Applicant affirmatively alleges that “*carry-all bags, duffel bags, tote bags, attaché cases, luggage tags, and wallets*” in International Class 18 as listed in Opposer’s Registration No. 3217097 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

19. Applicant affirmatively alleges that “*golfballs, scale model aircraft, teddy bears, flying discs, and toy helicopters*” in International Class 28 as listed in Opposer’s Registration No. 3205268 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

20. Applicant affirmatively alleges that “*carry-all bags, duffel bags, tote bags, attaché cases, luggage tags, and wallets*” in International Class 18 as listed in Opposer’s Registration No. 3221574 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

21. Applicant affirmatively alleges that “*pens, letter openers, holders for notepads, document portfolios, calendars, decals, paperweights, desktop business card holders, desk*

stands and holders for pens, posters, and notebooks” in International Class 16 as listed in Opposer’s Registration No. 3287862 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

22. Applicant affirmatively alleges that “*scale model airplanes, and toy helicopters*” in International Class 28 as listed in Opposer’s Registration No. 3301792 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

23. Applicant affirmatively alleges that “*financial services, namely, providing loans for helicopters*” in International Class 36 as listed in Opposer’s Registration No. 4482293 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

24. Applicant affirmatively alleges that “*conducting training classes, workshops, and seminars in the field of aviation only*” in International Class 41 as listed in Opposer’s Registration No. 4476030 are not related to Applicant’s International Class 41 services “*Arranging professional workshop and training courses in the field of exercise, fitness, game, toys and robots; Education services, namely, providing tutoring in the fields of exercise, fitness, games, toys and robots; Educational services, namely, conducting classes, seminars, conferences and workshops in the field of exercise, fitness, games, toys and robots; Entertainment services, namely, providing brain training games on-line and in mobile wireless form; Entertainment services, namely, providing on-line computer games; Games equipment rental; Gymnastic instruction; Production and distribution of monoscopic and stereoscopic, electronic, digital video and film; Production and distribution of videos in the field of exercise, fitness, games, toys and robots; Publication of books; Scriptwriting services for non-advertising purposes; Toy rental*” found in its Application Serial No.: 87/528,838.

25. Applicant affirmatively alleges that “*customer services, namely, responding to customers inquiries for others through the use of telecommunication devices and computer networks in the field of avionics*” in International Class 35 as listed in Opposer’s Registration No. 4641726 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

26. Applicant affirmatively alleges that “*providing extended warranties on new and used helicopters and spare parts for helicopters*” in International Class 36 as listed in Opposer’s Registration No. 4641726 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

27. Applicant affirmatively alleges that “*repair, maintenance, and overhaul of helicopters*” in International Class 37 as listed in Opposer’s Registration No. 4625475 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

28. Applicant affirmatively alleges that “*engineering services in the field of aviation only*” in International Class 42 as listed in Opposer’s Registration No. 4625476 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

29. Applicant affirmatively alleges that “*custom manufacture of helicopters to the specification and order of others*” in International Class 40 as listed in Opposer’s Registration No. 4556721 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

30. Applicant affirmatively alleges that “*aircraft and structural parts therefore*” in International Class 12 as listed in Opposer’s Registration No. 5338836 are not related to Applicant’s International Class 41 services found in its Application Serial No.: 87/528,838.

31. Applicant affirmatively alleges that Opposer marks are not famous.

32. Applicant affirmatively alleges that Opposer marks are not distinctive.

33. Applicant affirmatively alleges that Oppose does not own exclusive right to use the word “BELL.”

34. Applicant affirmatively alleges that third parties have used similar marks for similar goods, thus the Opposer’s marks are weak and entitled to a narrow scope of protection and cannot be considered strong enough to preclude applications for marks that are, on their face, different from Opposer’s existing marks.

35. Any and all acts alleged to have been committed by Applicant were performed with lack of knowledge and lack of willful intent.

36. Applicant expressly reserves the right to plead all affirmative defenses and any other defenses that may now exists or in the future become available from discovery or other investigation during this Opposition.

WHEREFORE, Applicant respectfully requests the Board to set aside the notice of default and dismiss the Opposition with prejudice.

Date: January 28, 2019

Respectfully submitted,

BAYES, PLLC

/Gulnaz T. Donahue/

Zhiwei Zou

Gulnaz T. Donahue

Attorneys for Defendant/Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **ANSWER AND AFFIRMATIVE DEFENSES** are being served on Plaintiff/Opposer Textron Innovations Inc., through their attorneys of record by transmitting a copy on January 28, 2019 via electronic mail at coakley@HDP.com, tcomparoni@hdp.com and agrubb@HDP.com read receipt requested.

Date: January 28, 2019

Signed: /Gulnaz T. Donahue/

Gulnaz T. Donahue

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Shenzhen Bell Creative Science and Education Co.,

Ltd.