

ESTTA Tracking number: **ESTTA965696**

Filing date: **04/09/2019**

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

Proceeding	91246082
Party	Defendant Clarenter, LLC
Correspondence Address	MARK D. BOWEN MALIN HALEY DIMAGGIO & BOWEN, P.A. 4901 NW 17TH WAY, SUITE 308 FORT LAUDERDALE, FL 33309 info@mhdpatents.com no phone number provided
Submission	Answer
Filer's Name	Mark D. Bowen
Filer's email	info@mhdpatents.com
Signature	/Mark D. Bowen/
Date	04/09/2019
Attachments	Answer.4-9-19.pdf(70182 bytes)

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

Fieldwork Education Limited,)	
a United Kingdom company,)	
)	
Opposer,)	Opposition No. 91246082
)	Serial No. 87614183
v.)	Mark: INTERNATIONAL
)	PRESCHOOL CURRICULUM
Clarenter, LLC,)	
a Florida limited liability company)	
)	
Applicant.)	
_____)	

ANSWER TO NOTICE OF OPPOSITION

Comes now Applicant, Clarenter, LLC, a Florida limited liability company having an address at 2801 SW 3rd Avenue, Unit F8, Fort Lauderdale, FL 33315, by and through the undersigned counsel, and answers the Notice of Opposition, filed by Fieldwork Education Limited (“Opposer”), as follows:

1. Applicant is without sufficient information upon which to form a belief as to the truth, falsity or completeness of the allegations contained in paragraph 1 of the Notice of Opposition and therefore denies the same.

2. Applicant is without sufficient information upon which to form a belief as to the truth, falsity or completeness of the allegations contained in paragraph 2 of the Notice of Opposition and therefore denies the same.

3. Applicant is without sufficient information upon which to form a belief as to the truth, falsity or completeness of the allegations contained in paragraph 3 of the Notice of Opposition and therefore denies the same.

4. Applicant is without sufficient information upon which to form a belief as to the truth, falsity or completeness of the allegations contained in paragraph 4 of the Notice of Opposition and therefore denies the same.

5. Applicant is without sufficient information upon which to form a belief as to the truth, falsity or completeness of the allegations contained in paragraph 5 of the Notice of Opposition and therefore denies the same.

6. Applicant admits the allegations contained in paragraph 6 of the Notice of Opposition.

7. Applicant admits the allegations contained in paragraph 7 of the Notice of Opposition.

8. Applicant admits the allegations contained in paragraph 8 of the Notice of Opposition.

9. Applicant admits the allegations contained in paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations contained in paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations contained in paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations contained in paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations contained in paragraph 13 of the Notice of Opposition.

14. Applicant is without sufficient information upon which to form a belief as to the truth, falsity or completeness of the allegations contained in paragraph 14 of the Notice of Opposition and therefore denies the same.

15. Applicant repeats and realleges the answers of the preceding paragraphs as if set forth herein.

16. Applicant is without sufficient information upon which to form a belief as to the truth, falsity or completeness of the allegations contained in paragraph 16 of the Notice of Opposition and therefore denies the same.

17. Applicant denies the allegations contained in paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegations contained in paragraph 18 of the Notice of Opposition.

19. Applicant denies the allegations contained in paragraph 19 of the Notice of Opposition.

20. Applicant denies the allegations contained in paragraph 20 of the Notice of Opposition.

21. Applicant denies the allegations contained in paragraph 21 of the Notice of Opposition.

22. Applicant denies the allegations contained in paragraph 22 of the Notice of Opposition.

23. Applicant denies the allegations contained in paragraph 23 of the Notice of Opposition.

24. Applicant denies the allegations contained in paragraph 24 of the Notice of Opposition.

25. Applicant repeats and realleges the answers of the preceding paragraphs as if set forth herein.

26. Applicant denies the allegations contained in paragraph 26 of the Notice of Opposition.

27. Applicant denies the allegations contained in paragraph 27 of the Notice of Opposition.

28. Applicant denies the allegations contained in paragraph 28 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

NO LIKELIHOOD OF CONFUSION

29. A likelihood of confusion does not exist between Opposer's alleged trademark and Applicant's mark. The marks contain different terms, "PRIMARY" versus "PRESCHOOL," which sufficiently distinguish the marks in terms of sight, sound and meaning and create different commercial impressions. The term "PRIMARY" in Opposer's alleged mark means "first" "of, relating to, or characteristic of primary school" and refers to the first compulsory school for children ranging from first grade to fifth or sixth grade, ages five to eleven. In contrast, the term "PRESCHOOL" in Applicant's mark means "of, relating to, or intended for a child between infancy and school age" and refers to optional preparatory school for children under the statutory school age. The terms clearly convey different meanings and relate to separate phases of schooling for children, mandatory versus optional, which also reflect different channels of trade. Thus, the

marks in their entireties are not visually or phonetically similar, have different meanings and create distinct commercial impressions with different channels of trade such that consumers will not be confused as to the source of the respective services.

SECOND AFFIRMATIVE DEFENSE

DISTINCTIVENESS

30. Applicant's Registration No. 4100341 on the Supplemental Register is evidence of its exclusive use of the mark and distinctiveness for over five years.

WHEREFORE, Applicant, Clarenter, LLC, respectfully demands judgment dismissing the Opposer's Notice of Opposition against Applicant's application to register its mark INTERNATIONAL PRESCHOOL CURRICULUM, Serial No. 87614183, and that this Answer and Affirmative Defenses in response to such opposition be sustained, that Judgment is entered in Applicant's favor, and that Applicant's mark proceeds through the Registration process.

Date: 04/09/2019

Respectfully Submitted By:

By: /Mark D. Bowen/
MALIN HALEY DIMAGGIO & BOWEN, P.A.
4901 NW 17th Way, Suite 308
Ft. Lauderdale, FL 33309
(954) 763-3303
Info@mhdpatents.com
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify this **ANSWER TO NOTICE OF OPPOSITION** is being filed electronically this day with the U.S. Trademark Trial and Appeal Board, and one copy of the foregoing is being emailed this 9th day of April, 2019 to:

Ellen A. Rubel
Kathryn G. Cole
Moore & Van Allen, PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28280
Tel: 704-331-1000
ellenrubel@mvalaw.com
katecole@mvalaw.com

By: /Mark D. Bowen/
Mark D. Bowen
Attorney for Applicant