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

Proceeding	91246608
Party	Defendant Oaklandish LLC
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Date	03/01/2021
Attachments	Answer- Opp. No. 91246608 - Athletics Investment Group v Oaklandish - final.pdf(129566 bytes)

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

In the matter of Application Serial Nos. 87863914 and 87910572

Athletics Investment Group LLC d/b/a
The Oakland Athletics Baseball
Company

Plaintiff,

v.

Oaklandish LLC

Defendant.

Opposition No. 91246608

ANSWER AND AFFIRMATIVE DEFENSES

Oaklandish LLC (“Applicant”) hereby answers the Notice of Opposition by addressing each allegation and stating affirmative defenses.

Answering the preamble of the Notice of Opposition, Applicant is without knowledge or information sufficient to admit or deny Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company’s (“Opposer”) place of incorporation or its principal place of business, and its claim of damage, and on that basis denies such allegations.

ANSWER TO NOTICE OF OPPOSITION

1. Answering the allegations of Paragraph 1 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 1, and on that basis, denies the allegations.

2. Answering the allegations of Paragraph 2 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 2, and on that basis, denies the allegations.

3. Answering the allegations of Paragraph 3 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 3, and on that basis, denies the allegations.

4. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 4, and on that basis, denies the allegations.

5. Answering the allegations of Paragraph 5 of the Notice of Opposition, Applicant denies that July 8, 2011 is “the earliest date on which Applicant may rely.” Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 5, and on that basis, denies the allegations.

6. Answering the allegations of Paragraph 6 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 6, and on that basis, denies the allegations.

7. The allegations in Paragraph 7 are admitted.

8. The allegations in Paragraph 8 are admitted, except that Applicant denies that the first date of use in interstate commerce claimed in the application is “on July 8, 2011,” as Opposer has alleged, but rather, the language of the application itself states, “at least as early as.”

9. Applicant reserves the right to present evidence of use that predates the use date identified in this Paragraph and denies that there is no possibility that Applicant

used its mark in interstate commerce prior to the first date of use claimed in its application.

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. Moreover, it is unclear where the images included in the Notice of Opposition were taken from or what they purport to show and nearly all of the images presented do not include Applicant's mark as identified in the opposed applications nor do the images show use of Applicant's mark in connection with the goods and services identified in the opposed applications.

13. This paragraph is mistakenly numbered as 11 in the Notice of Opposition. Applicant denies the allegations contained in Paragraph 11 (which should be correctly listed as Paragraph 13).

14. This paragraph is mistakenly numbered as 12 in the Notice of Opposition. Answering the allegations of this Paragraph 12 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in the first sentence of this Paragraph 12, and on that basis, denies the allegations. Applicant denies the remaining allegations in this Paragraph 12.

15. This paragraph is mistakenly numbered as 13 in the Notice of Opposition. Applicant denies the allegations contained in Paragraph 15 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

Applicant asserts the following affirmative defenses without conceding that it has the burden of proof or burden of producing evidence with respect to any of these issues.

First Affirmative Defense

There is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the trademarks allegedly owned by Opposer are not confusingly similar.

Second Affirmative Defense

There is no likelihood of confusion, mistake, or deception because Opposer's goods and services and Applicant's goods and services are different and unrelated.

Third Affirmative Defense

There is no likelihood of confusion, mistake, or deception because Applicant's services are offered through different channels of trade than the goods offered by Opposer and identified in Opposer's registrations.

Fourth Affirmative Defense

There is no likelihood of confusion, mistake, or deception in light of the fact that there has been at least a decade of concurrent use of the parties' respective marks with no evidence of confusion.

Fifth Affirmative Defense

Applicant's acts are privileged and lawful.

Sixth Affirmative Defense

Opposer's mark is not diluted by Applicant's mark in particular because of the many marks registered at the USPTO including the term "Oakland" and registered in connection with related goods and services.

Seventh Affirmative Defense

Opposer will not be damaged by the registration of Applicant's mark, nor will any alleged distinctiveness be diluted.

Eighth Affirmative Defense

Applicant hereby gives notice that it reserves all rights to assert additional defenses that are now not known but may later become known through discovery or other means.

WHEREFORE, Applicant respectfully requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant all other appropriate relief to Applicant as it deems just.

Dated: March 1, 2021

Respectfully Submitted,

BRAND & BRANCH LLP

By: /Shabnam Malek/

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 1st day of March 2021, a true and correct copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES was served upon Opposer by electronic mail, addressed as follows:

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Signed: /Shabnam Malek/
Shabnam Malek