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

Proceeding	91248764
Party	Defendant MY MY STAR INC.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MobileSoft Technology, Inc.,

Opposer,

v.

MY MY STAR INC.

Applicant.

Opposition No. 91248764

Mark: MY MY STAR

Serial No. 87836135

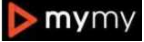
Filed: March 15, 2018

Published: February 12, 2019

ANSWER TO CONSOLIDATED NOTICE OF OPPOSITION

Applicant My My Star Inc. (“Applicant”), by and through its attorneys, hereby answers the Consolidated Notice of Opposition (“Opposition”) opposing the MY MY STAR standard character mark with U.S. Application Serial No. 87836135 (“Applicant’s Mark”) filed by Opposer MobileSoft Technology, Inc. (“Opposer”) as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1, and on this basis, denies them.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2, and on this basis, denies them.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3, and on this basis, denies them.
4. Applicant admits the allegations of paragraph 4.
5. Applicant admits that it in its Notice of Opposition pleading for Opposition No. 91236066 it alleges ownership of the MY MY STAR common law trademark.

6. Applicant admits that it has alleged in Opposition No. 91236066 that Opposer's MYMY and  marks are likely to be confused with Applicant's Mark.

7. Applicant admits the allegations of paragraph 7.

8. Applicant denies the allegations of paragraph 8.

9. Applicant admits the allegation of paragraph 9.

10. Applicant admits the allegations of paragraph 10.

11. Applicant admits the allegations of paragraph 11.

12. Applicant admits the allegations of paragraph 12.

13. Applicant denies the allegations of paragraph 13.

14. Applicant denies the allegations of paragraph 14.

15. Applicant denies the allegations of paragraph 15.

16. Applicant denies the allegations of paragraph 16.

17. Applicant denies the allegations of paragraph 17.

18. Applicant denies the allegations of paragraph 18.

19. Applicant denies the allegations of paragraph 19.

20. Applicant denies the allegations of paragraph 20.

21. Applicant denies the allegations of paragraph 21.

22. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22, and on this basis denies them.

23. Applicant denies the allegations of paragraph 23 .

24. Applicant denies the allegations of paragraph 24.

25. Applicant denies the allegations of paragraph 25.

26. Applicant denies the allegations of paragraph 26.

27. Applicant denies the allegations of paragraph 27.

28. Applicant denies the allegations of paragraph 28.

29. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29, and on this basis denies them.

30. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30, and on this basis denies them.

31. Applicant denies the allegations of paragraph 31.

32. Applicant denies the allegations of paragraph 32.

33. Applicant denies the allegations of paragraph 33.


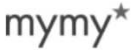
34. Applicant denies the allegations of paragraph 34.




35. Applicant denies the allegations of paragraph 35.

36. Applicant denies the allegations of paragraph 36.

37. Applicant denies the allegations of paragraph 37.

38. Applicant denies the allegations of paragraph 38.

39. Applicant admits that Applicant is using and intends to continue to use or intends to use the  design mark on its goods and services. Applicant denies that the  mark is confusingly similar to Opposer's MYMY mark.

40. Applicant admits that Applicant is using and intends to continue to use or intends to use the  design mark on its goods and services. Applicant denies that the  mark is confusingly similar to Opposer's  mark.

41. Applicant denies the allegations of paragraph 41.

42. Applicant denies the allegations of paragraph 42.

43. Applicant denies the allegations of paragraph 43.

44. Applicant denies the allegations of paragraph 44.
45. Applicant denies the allegations of paragraph 45.
46. Applicant denies the allegations of paragraph 46.
47. Applicant denies the allegations of paragraph 47.
48. Applicant denies the allegations of paragraph 48.
49. Applicant denies the allegations of paragraph 49.
50. Applicant denies the allegations of paragraph 50.
51. Applicant denies the allegations of paragraph 51.
52. Applicant admits that Applicant's Mark is pending in International Class 41.

Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 52, and on this basis denies them.

53. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53, and on this basis denies them.

54. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54, and on this basis denies them.

55. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 55, and on this basis denies them.

56. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56, and on this basis denies them.

57. Applicant denies the allegations of paragraph 57.
58. Applicant denies the allegations of paragraph 58.
59. Applicant denies the allegations of paragraph 59.
60. Applicant denies the allegations of paragraph 60.

61. Applicant denies the allegations of paragraph 61.
62. Applicant denies the allegations of paragraph 62.
63. Applicant denies the allegations of paragraph 63.
64. Applicant denies the allegations of paragraph 64.
65. Applicant denies the allegations of paragraph 65.
66. Applicant denies the allegations of paragraph 66.

AFFIRMATIVE DEFENSES

1. The Opposition fails to state a claim upon which relief can be granted.
2. Applicant's Mark is distinctive to Applicant, due to Applicant's Mark's goodwill and widespread usage. Since its adoption and usage as May 31, 2002, Applicant has cultivated immense goodwill in Applicant's Mark at great expense. Applicant has been, and still is, an industry leader engaged in the development, marketing, and sale of digital content, including but not limited to online and broadcast advertising content, downloadable and non-downloadable videos, banner advertisements, social media marketing campaigns, software applications, online games, and other digital production studio products under Applicant's Mark. Such expense includes not only significant financial expenditures associated with Applicant's substantial and continuous advertising and promotional activities, but also time and effort necessary to produce world-class goods and services in an increasingly competitive industry. Applicant has provided and continues to provide millions of dollars worth of goods and services under Applicant's Mark to Applicant's consumers, which include but are not limited to large advertising agencies and multinational companies. For example, Applicant's clients include, but are not limited to, Google, Nike, iRobot, Spotify, Toyota, Star Wars / Lucasfilm, The Sundance Film Festival, Electronic

Arts, Samsung, Guinness, Chevron, Texaco, Madonna, Britney Spears, Lexus, Microsoft, ESPN, Gatorade, Diet Coke, Sony Playstation, Kraft, MTV, Tanqueray, Jet Blue, Polo / Ralph Lauren, M & M's, Discovery Channel, Verizon, Motorola, Mitsubishi, Doritos, Sony, J.P. Morgan, Cartoon Network, Heineken, Microsoft, DreamWorks SKG, Viagra, Jaguar, Subaru, UPS, IBM, Xerox, Miramax, Cingular, Calvin Klein, Yahoo, Canon, Flex Jet, The Independent Film Channel, CBS, Target, DHL, Ford, Hardees / Carls Jr., Pepperidge Farm, Knorr, Accenture, Rockport, Oracle, Hennessy, Electrolux, AMC, Netscape, We Channel, Warner Bros, Nutrilite, Qantas, Disney, Nikon, and Sony.

Furthermore, Applicant continuously and substantially advertises and promotes its activities by disseminating product samples to potential clients under Applicant's Mark. Applicant also does so by making goods and services bearing Applicant's Mark available to consumers across the United States.

As a result of its continuous and substantial use, Applicant's Mark is a valuable asset of Applicant and carries substantial goodwill. Due to the goodwill and continuous and substantial usage, Applicant's Mark is distinctive to Applicant.

3. Applicant has priority. Since at least as early as May 31, 2002, fifteen (15) years before filing its Notice of Opposition pleading for Opposition No. 91236066, Applicant has continuously used and promoted Applicant's Mark. Applicant has provided millions of dollars worth of goods and services under Applicant's Mark. Applicant's Mark has become famous throughout its fifteen (15) year history of continuous and substantial use, together with millions of dollars in business transactions conducted under Applicant's Mark. Thus, if there is a likelihood of confusion, Applicant has priority.

4. The Opposition is barred by the doctrines of laches, acquiescence, waiver, and estoppel. Since at least as early as May 31, 2002, seventeen (17) years before Opposer filed this Opposition, Applicant's Mark developed consumer recognition and goodwill through Applicant's substantial widespread use.

5. The Opposition is barred by the doctrine of unclean hands. In a clear act of retaliation against Applicant for Applicant's filing of a Notice of Opposition, Opposer files this Notice of Opposition against Applicant's Mark in bad faith. Opposer attempts to prevent Applicant from registering and protecting the hard earned and substantially valuable goodwill of Applicant's Mark.

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

7. The Opposition is barred because Opposer has engaged in fraud. In particular, Applicant's use of its MY MY STAR marks predates any use of the MYMY (or related design) mark by Opposer. In an attempt to trade off the goodwill and popularity of Applicant's services, Opposer has been and continues to infringe upon Applicant's intellectual property rights with respect to its distinctive services. Nonetheless, Opposer has falsely claimed that its use of MYMY predates Applicant's use of the same.

WHEREFORE, Applicant requests that the Opposition be dismissed with prejudice, together with whatever other relief the Board may deem appropriate.

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RESPECTFULLY SUBMITTED this 22nd day of July, 2019.

OMNI LEGAL GROUP

A handwritten signature in black ink, appearing to be 'Omid E. Khalifeh', written over a horizontal line.

Omid E. Khalifeh
Ariana Santoro
Lara A. Petersen
Attorneys for Applicant,
MY MY STAR INC.