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

Proceeding	91248904
Party	Defendant Dlive Inc.
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Attachments	2019 08 28 DLive Answer to Notice of Opposition.pdf(103870 bytes )

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

In the matter of  
Trademark Application No. 88228476  
Filed: December 13, 2018  
Published: May 21, 2019  
Mark: DLIVE

Dlive22891 Corp.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91248904
vs.	)	
	)	
DLive Inc.,	)	
	)	
Applicant.	)	
	)	

**DLIVE INC.’S ANSWER TO NOTICE OF OPPOSITION**

Applicant DLive Inc. (“DLive”) answers Opposer Dlive22891 Corp.’s (“Opposer”) Notice of Opposition (the “Opposition”), and admits, denies and alleges as follows.

1. DLive admits that Opposer filed a Notice of Opposition to DLive’s U.S. Trademark Application No. 88228476.
2. DLive admits that DLive filed U.S. Trademark Application No. 88228476 to register the DLIVE mark.
3. DLive lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Opposition and therefore denies them.
4. DLive denies the allegations of paragraph 4 of the Opposition.
5. DLive denies the allegations of paragraph 5 of the Opposition with respect to Opposer’s claimed use of a DLIVE mark.

6. DLive admits that U.S. Trademark Application No. 88228476 states that DLive began using the DLIVE mark at least as early as September 7, 2018. DLive lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 6 of the Opposition, and therefore denies them.

7. DLive denies the allegations of paragraph 7 of the Opposition.

8. DLive denies the allegations of paragraph 8 of the Opposition.

9. DLive denies the allegations of paragraph 9 of the Opposition.

10. DLive denies the allegations of paragraph 10 of the Opposition.

11. DLive denies the allegations of paragraph 11 of the Opposition.

12. DLive denies the allegations of paragraph 12 of the Opposition.

13. DLive denies the allegations of paragraph 13 of the Opposition.

14. DLive denies the allegations of paragraph 14 of the Opposition.

15. DLive denies the allegations of paragraph 15 of the Opposition.

All allegations in the Opposition, whether explicit or implicit and including averments, which require an answer are denied to the extent that those allegations are not expressly and specifically admitted herein. Moreover, pursuant to Rule 8(b)(6) of the Federal Rules of Civil Procedure, allegations in the Opposition, to which no responsive pleading is required shall be deemed denied.

**FIRST AFFIRMATIVE DEFENSE**

1. DLive alleges that the Notice of Opposition fails to allege facts sufficient to state the claims alleged or entitle Opposer to the remedy sought.

**SECOND AFFIRMATIVE DEFENSE**

2. DLive alleges that its use of the trademark DLIVE, as set forth in the application, does not create a likelihood of confusion, does not create a likelihood of dilution, is not

deceptive, and does not create a false suggestion of connection related to Opposer's alleged use of DLIVE, and the Notice of Opposition is therefore without merit.

**THIRD AFFIRMATIVE DEFENSE**

3. DLive alleges that its use of its mark is lawful with respect to Opposer.

The above defenses and affirmative defenses are based on the facts and information currently known to DLive. DLive reserves the right to amend or add defenses or affirmative defenses based on facts later discovered, pled, or offered.

**WHEREFORE**, Applicant prays that Opposer's Notice of Opposition be dismissed and that judgment be entered in favor of Applicant.

Dated: August 28, 2019

Respectfully submitted,

By: /Eric J. Ball/  
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**CERTIFICATE OF SERVICE BY EMAIL**

I hereby certify that a true and correct copy of the foregoing **DLIVE INC.'S ANSWER TO NOTICE OF OPPOSITION** was served this 28th day of August 2019, by email, on counsel for the Opposer herein at: gms@jacobowitz.com, kap@jacobowitz.com as required by the Trademark Trial and Appeal Board.

/Donna Skarloken/\_\_\_\_\_

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