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

Proceeding	91250979
Party	Plaintiff All Saints Retail Limited
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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ALL SAINTS RETAIL LTD., : Opposition No. 91250979  
: In the Matter of Trademark Application  
*Opposer,* : Serial No. 88/125,045  
:   
v. :   
:   
BLITZ NV, LLC, :   
:   
*Applicant.* :   
-----X

**OPPOSER’S ANSWER TO APPLICANT’S COUNTERCLAIMS  
AND OPPOSER’S AFFIRMATIVE DEFENSES**

Opposer ALL SAINTS RETAIL LTD (“All Saints”), by its undersigned attorneys, as and for its Answer to BLITZ NV, LLC’s (“Blitz”) Counterclaims filed October 25, 2019 (the “Counterclaims”), avers as follows:

1. Blitz NV, LLC (“Blitz”) is a Nevada limited liability company having a place of business at 6005 Las Vegas Blvd. South, Suite 7, Las Vegas, Nevada 89119.

**ANSWER:** All Saints denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Counterclaims and therefore denies the same.

2. Upon information and belief, Registrant All Saints Retail Limited (“Registrant”) is a limited company organized under the laws of the United Kingdom, with offices at Jack’s Place Units C15-C17, 6 Corbet Place, London, United Kingdom E16NN.

**ANSWER:** All Saints admits the allegations in Paragraph 2 of the Counterclaims.

3. Blitz is in the business of manufacturing, marketing and selling a variety of consumer goods including CBD products, vaporizers, and clothing.

**ANSWER:** All Saints denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Counterclaims and therefore denies the same.

4. Blitz is the owner of Trademark Appl. Serial Number: 88/125,045 for the mark shown in the caption above for intended use with: Sun-tanning lotions and oils; non medicated stimulating lotions for the skin; Bar soap; liquid bath soaps; skin soap; perfumed soap; make up removing milk, gel, lotions and creams; make up primer; Facial make up, namely, powder, foundation, primer, lipstick, lip gloss in International Class 3; clothing for domestic pets; Collars for pets; Pet clothing; Backpacks in International Class 18; Clothing, namely, belts, chaps, coats, dresses, footwear, foul weather gear, gloves, headwear, jackets, pants, robes, scarves, shirts, t-shirts, tank-tops, shorts, skirts, sleepwear, socks, sweaters, sweatshirts, swimwear, ties, undergarments, vests, hats, toques, lab coats, yoga pants and tights, cargo pants; bandanas in International Class 25; and On-line retail store services featuring clothing, snack foods, and smokers' products; Retail store services featuring clothing, snack foods, and smokers' products in Class 35.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 4 of the Counterclaims. All Saints denies knowledge or information sufficient to form a belief as to the truth of the other allegations in this paragraph and therefore denies the same.

5. A copy of the U.S. Patent & Trademark Office's TESS printouts of the above-listed mark is attached hereto as Exhibit A ("Blitz's Mark").

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 5 of the Counterclaims.

6. Registrant has opposed the registration of Blitz's Mark in Opposition No. 91250979. Blitz therefore has standing to bring these Counterclaims.

**ANSWER:** All Saints admits that it has opposed the registration of Blitz's Mark in Opposition No. 91250979, and avers that the other allegations in this paragraph contain a legal conclusion to which no response is required.

7. Upon information and belief, Registrant has abandoned its registration and trademark rights for the registrations listed below, in part, by non-use of the trademarks covered by such registrations in the United States for a period of at least three (3) consecutive years with no bona fide

intent to resume such use in the foreseeable future, or, alternatively, Registrant did not have a bona fide intent to use the mark in connection with the goods when it filed its applications for registration and/or at the time the registration issued.

**ANSWER:** All Saints denies the allegations in Paragraph 7 of the Counterclaims.

8. The registrations for which Blitz seeks cancellation are as follows:

a. Registration No. 3976276 (Notice at Ex. B, TESS records) for the mark shown below for “travel bags, beach bags, luggage, rucksacks, bum bags, handbags, keycases, tote bags, hold all bags, shoulder bags, wallets, umbrellas, satchels, suitcases, luggage trunks, valises, kit bags, toiletries bags for travel, shoe bags for travel, travel bags, replacement parts and fittings for all the aforesaid goods” in International Class 18; “Articles of clothing, namely, belts made of leather or imitation leather, shirts, pants, suits, skirts, dresses, socks, undergarments, footwear, namely, shoes and boots and headgear, namely, hats and caps” in International Class 25, and “Retail and wholesale store services featuring articles of soaps, perfumery, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, jewellery, precious stones, horological and chronometric instruments, clocks and watches, earrings, key fobs and rings, badges, buckles, chains, pins, bags, travel bags, beach bags, luggage, rucksacks, bum bags, handbags, keycases, tote bags, hold all bags, shoulder bags, belts made of leather or imitation leather, wallets, umbrellas, satchels, suitcases, trunks, valises, travel goods and bags being made of leather or imitation leather, parts and fittings for all the aforesaid goods, articles of clothing, footwear and headgear” in Class 35.



b. Registration No. 4995379 (Notice at Ex. B, TESS records) for the mark shown below for “Bags, namely, kit bags, toiletry bags for travel, shoe bags for travel, all-purpose carrying bags, carry-all bags, leather and imitation leather bags, travel bags, beach bags, luggage, rucksacks, bum bags, handbags, key cases, tote bags, hold all bags, shoulder bags, wallets, satchels, suitcases, luggage trunks, travelling trunks, valises, travel cases; parts and fittings for all the aforesaid goods, in the nature of leather straps; umbrellas” in International Class 18; “Articles of clothing, namely, men’s, women’s and children’s apparel, namely, shirts, t-shirts, blouses, sweaters, cardigans, tank tops, camisoles, jerseys, pants, trousers, capris, shorts, jeans, suits, neckties, blazers, dresses, gowns, skirts, tops, bottoms, coats, vests, overcoats, jackets, leather jackets, leather pants, wind-resistant jackets and shells, rainwear, ponchos, pullovers, jumpers, jumpsuits, running pants, athletic shorts, track pants, track suits, sweat pants, sweat shirts, sweat suits, gym shorts, gym suits, loungewear, sleepwear, robes, bathrobes, night gowns, pajamas, swimwear, swim suits, bathing suits, bikinis, board shorts, beach coverups, beachwear, coveralls, undergarments, underwear, undershirts, boxer shorts, boxer briefs, body shapers, body suits, bras, brassieres, stockings, slippers, lingerie, legwarmers, leggings, leotards, socks, bandanas, shawls, scarves, ear muffs, gloves, infantwear, infant sleepers, bib overalls, belts, belts made of leather or imitation leather; footwear; headgear, namely, hats and caps,” in International Class 25; and “Wholesale and retail store services of articles of soaps, perfumery, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, optical goods, spectacles, sunglasses, cases and carrying cases adapted for spectacles and sunglasses,

containers for spectacles and sunglasses, chains, cords and straps for spectacles and sunglasses, frames for spectacles and sunglasses, lenses for spectacles and sunglasses, headphones, mouse mats, mobile phone accessories, bags adapted for carrying photographic apparatus, bags adapted for carrying video apparatus, bags adapted for carrying cameras, battery holders, cassette tape holders, compact disc holders, MP3 holders, holders adapted for mobile phones, holders adapted for the display and storage of audio and video cassettes and discs, holders adapted for compact discs, holders for the transport of cassettes and discs, downloadable music files, downloadable video files, music recordings, musical video recordings, encoded payment cards, encoded cards, jewelry, jewelry chains, pins being jewelry, precious stones, horological and chronometric instruments, clocks and watches, earrings, key fobs and rings, badges of precious metal, buckles for watchstraps, bags, travel bags, beach bags, luggage, rucksacks, bum bags, handbags, key cases, tote bags, hold all bags, shoulder bags, wallets, umbrellas, satchels, suitcases, luggage trunks, travelling trunks, valises, travel cases, articles of clothing, footwear and headgear,” in International Class 35.



c. Registration No. 4570963 (Notice at Ex. B, TESS records) for the mark RAMSKULL for “Articles of soaps, namely, beauty soaps, bath soaps, and cream soaps, perfumery, essential oils, cosmetics, non-medicated skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants for personal use, dentifrices, lip balm, eye creams and gels, sunscreen and sun-tanning preparations, cleaning preparations and exfoliators, namely, exfoliating pad containing a glycolic ingredient not for medical purposes, laundry preparations, namely, laundry detergents, bath and shower foams and gels, bath and shower preparations, namely, gels and salts not for medical purposes and depilatory preparations,” in International Class 3; “Optical goods, namely,

spectacles; sunglasses; cases and carrying cases adapted for spectacles and sunglasses; containers for spectacles and sunglasses; chains, cords and straps for spectacles and sunglasses; frames for spectacles and sunglasses; lenses for spectacles and sunglasses; headphones; mouse mats; bags adapted for carrying photographic apparatus, video apparatus, cameras; battery holders; cassette tape holders; compact disc holders; MP3 holders; holders specially adapted for use with mobile phones; holders adapted for the display and storage of audio and video cassettes and discs; holders specially adapted for use with compact discs; holders for the transport of cassettes and discs; downloadable music files; downloadable video files featuring musical performances; music recordings; musical video recordings,” in International Class 9; “Jewellery, precious stones, horological and chronometric instruments, clocks and watches, earrings, key fobs and key rings of precious metal, badges of precious metal, buckles for watchstraps, jewellery chains, lapel pins,” in International Class 14, “Bags, namely, travel bags, beach bags, luggage, rucksacks, bum bags, handbags, keycases, Tote bags, holdalls, shoulder bags, shoulder belts made of leather or imitation leather, wallets, umbrellas, satchels, suitcases, trunks, valises,” in International Class 18; “Articles of clothing, namely, shirts, pants, trousers, t-shirts, suits, blouses, dresses, skirts, shorts, jeans, socks, coats, overcoats, jackets, wind-resistant jackets and shells, running pants, athletic shorts, sweat suits, track suits, sweat pants, and sweat shirts; footwear; and headgear, namely, hats and caps,” in International Class 25; and “Retail store and wholesale store services featuring articles of soaps, perfumery, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, optical goods, spectacles, sunglasses, cases and carrying cases adapted for spectacles and sunglasses, containers for spectacles and sunglasses, chains, cords and straps for spectacles and sunglasses, frames for spectacles and sunglasses, lenses for spectacles and sunglasses, headphones, mouse mats, mobile phone accessories, bags adapted for carrying photographic apparatus, bags adapted for carrying video apparatus, bags adapted for carrying cameras, battery holders, cassette tape holders, compact disc holders, MP3 holders, holders adapted for mobile

phones, holders adapted for the display and storage of audio and video cassettes and discs, holders adapted for compact discs, holders for the transport of cassettes and discs, downloadable music files, downloadable video files, music recordings, musical video recordings, jewellery, precious stones, horological and chronometric instruments, clocks and watches, earrings, key fobs and rings, badges, buckles, chains, pins, bags, travel bags, beach bags, luggage, rucksacks, bum bags, handbags, keycases, tote bags, hold all bags, shoulder bags, belts made of leather or imitation leather, wallets, umbrellas, satchels, suitcases, trunks, valises, travel goods and bags being made of leather or imitation leather, parts and fittings for all the aforesaid goods, articles of clothing, footwear and headgear,” in International Class 35.

**ANSWER:** All Saints denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Counterclaims and therefore denies the same.

9. The above-listed trademarks are collectively referred to as the “Opposer’s Registrations.”

**ANSWER:** Paragraph 9 of the Counterclaims consists of statements to which no answer is required.

10. Blitz believes that it is or will be damaged by the Opposer’s Registrations listed above, and hereby petitions to cancel the same in part pursuant to Section 14 of the Trademark Act of 1946 (the “Trademark Act”), as amended, 15 U.S.C. § 1064(3).

**ANSWER:** All Saints denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Counterclaims as to Blitz’s state of mind and therefore denies the same, and denies the remaining allegations in this paragraph.

### **ANSWER TO FIRST COUNTERCLAIM**

#### **Cancellation of U.S Trademark Reg. No. 3976276 In Part Based on Abandonment**

11. Blitz repeats and realleges each of the allegations contained in Paragraphs 1-10 of these Counterclaims as if fully set forth herein.



**ANSWER:** All Saints repeats and incorporates its answers to all of the preceding allegations within Paragraphs 1-10 as if fully set forth herein.

12. U.S. Trademark Reg. No. 3976276 was issued on June 14, 2011.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 12 of the Counterclaims.

13. Upon information and belief, Registrant is not currently offering, at least the following goods listed in Registration No. 3976276 in the United States in connection with the above-referenced mark:

- beach bags, luggage, bum bags, handbags, keycases, tote bags, shoulder bags, umbrellas, satchels, suitcases, luggage trunks, kit bags, toiletries bags for travel, shoe bags for travel, replacement parts and fittings for all the aforesaid goods in International Class 18;
- articles of clothing, namely, suits, skirts, dresses, undergarments, in International Class 25, and
- retail and wholesale store services featuring articles of soaps, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, jewellery, precious stones, earrings, key fobs and rings, badges, buckles, chains, pins, beach bags, luggage, bum bags, keycases, tote bags, umbrellas, satchels, suitcases, trunks, parts and fittings for all the aforesaid goods, in Class 35.

**ANSWER:** All Saints denies the allegations in Paragraph 13 of the Counterclaims.

14. Upon information and belief, Registrant has not used the mark in commerce on such goods for at least three (3) years and Registrant has no intention to resume bona fide use of the mark in the ordinary course of Registrant's trade in the foreseeable future.

**ANSWER:** All Saints denies the allegations in Paragraph 14 of the Counterclaims.

15. Registrant has therefore abandoned the mark appearing in Registration No. 3976276 in part.

**ANSWER:** All Saints denies the allegations in Paragraph 15 of the Counterclaims.

**ANSWER TO SECOND COUNTERCLAIM**

**Cancellation of U.S. Trademark Reg. No. 3976276 In Part Based on Lack of Bona Fide Intent to Use at the Time of Filing Application for Registration**

16. Blitz repeats and realleges each of the allegations contained in Paragraphs 1-15 of these Counterclaims as if fully set forth herein.

**ANSWER:** All Saints repeats and incorporates its answers to all of the preceding allegations within Paragraphs 1-15 as if fully set forth herein.

17. U.S. Trademark Reg. No. 3976276 was filed on March 5, 2008 and issued on June 14, 2011.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 17 of the Counterclaims.

18. Registrant submitted a verified statement affirming a bona fide intent to use a mark as part of the application process. Exhibit B.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 18 of the Counterclaims.

19. Upon information and belief, Registrant did not have a bona fide intent to use the mark in connection with at least the following goods listed in Registration No. 3976276 at the time of filing the application for registration under Section 44(e) of the Lanham Act:

- beach bags, luggage, bum bags, handbags, keycases, tote bags, shoulder bags, umbrellas, satchels, suitcases, luggage trunks, kit bags, toiletries bags for travel, shoe bags for travel, replacement parts and fittings for all the aforesaid goods in International Class 18;
- articles of clothing, namely, suits, skirts, dresses, undergarments, in International Class 25, and

- retail and wholesale store services featuring articles of soaps, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, jewellery, precious stones, earrings, key fobs and rings, badges, buckles, chains, pins, beach bags, luggage, bum bags, keycases, tote bags, umbrellas, satchels, suitcases, trunks, parts and fittings for all the aforesaid goods, in Class 35.

**ANSWER:** All Saints denies the allegations in Paragraph 19 of the Counterclaims.

20. Registrant has therefore abandoned the mark appearing in Registration No. 3976276 in part.

**ANSWER:** All Saints denies the allegations in Paragraph 20 of the Counterclaims.

### **ANSWER TO THIRD COUNTERCLAIM**

#### **Cancellation of U.S. Trademark Reg. No. 4995379 In Part Based on Abandonment**

21. Blitz repeats and realleges each of the allegations contained in Paragraphs 1-20 of these Counterclaims as if fully set forth herein.

**ANSWER:** All Saints repeats and incorporates its answers to all of the preceding allegations within Paragraphs 1-20 as if fully set forth herein.

22. U.S. Trademark Reg. No. 4995379 was issued on July 12, 2016.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 22 of the Counterclaims.

23. Upon information and belief, Registrant is not currently offering at least the following goods listed in Registration No. 4995379 in the United States in connection with the above-referenced mark:

- kit bags, toiletry bags for travel, shoe bags for travel, beach bags, luggage, bum bags, handbags, key cases, tote bags, shoulder bags, satchels, suitcases, luggage trunks, travelling

trunks; parts and fittings for all the aforesaid goods, in the nature of leather straps; umbrellas in International Class 18;

- articles of clothing, namely, men's, women's and children's apparel, namely, blouses, sweaters, cardigans, camisoles, jerseys, trousers, capris, shorts, jeans, suits, neckties, blazers, dresses, gowns, skirts, vests, overcoats, leather pants, rainwear, ponchos, jumpers, jumpsuits, athletic shorts, track suits, sweat suits, gym shorts, gym suits, sleepwear, robes, bathrobes, night gowns, pajamas, swimwear, swim suits, bathing suits, bikinis, board shorts, beach coverups, beachwear, coveralls, undergarments, underwear, undershirts, boxer shorts, boxer briefs, body shapers, body suits, bras, brassieres, stockings, slippers, lingerie, legwarmers, leggings, leotards, bandanas, shawls, ear muffs, infantwear, infant sleepers, bib overalls, in International Class 25; and
- wholesale and retail store services of articles of soaps, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, headphones, mouse mats, bags adapted for carrying photographic apparatus, bags adapted for carrying video apparatus, bags adapted for carrying cameras, battery holders, cassette tape holders, compact disc holders, MP3 holders, holders adapted for the display and storage of audio and video cassettes and discs, holders adapted for compact discs, holders for the transport of cassettes and discs, downloadable music files, downloadable video files, music recordings, musical video recordings, jewelry, jewelry chains, pins being jewelry, precious stones, earrings, key fobs and rings, badges of precious metal, beach bags, luggage, bum bags, key cases, tote bags, umbrellas, satchels, suitcases, luggage trunks, travelling trunks in International Class 35.

**ANSWER:** All Saints denies the allegations in Paragraph 23 of the Counterclaims.

24. Upon information and belief, Registrant has not used the mark in commerce with such goods for at least three (3) years and Registrant has no intention to resume bona fide use of the mark in the ordinary course of Registrant's trade in the foreseeable future.

**ANSWER:** All Saints denies the allegations in Paragraph 24 of the Counterclaims.

25. Registrant has therefore abandoned the mark appearing in Registration No. 4995379 in part.

**ANSWER:** All Saints denies the allegations in Paragraph 25 of the Counterclaims.

#### **ANSWER TO FOURTH COUNTERCLAIM**

#### **Cancellation of U.S. Trademark Reg. No. 4995379 In Part Based on Lack of Bona Fide Intent to Use at the Time of Filing Application for Registration, and After Registration Issued**

26. Blitz repeats and realleges each of the allegations contained in Paragraphs 1-25 of these Counterclaims as if fully set forth herein.

**ANSWER:** All Saints repeats and incorporates its answers to all of the preceding allegations within Paragraphs 1-25 as if fully set forth herein.

27. U.S. Trademark Reg. No. 4995379 was filed on February 2, 2015 (as a request for extension of protection under Section 66(a) for International Registration No. 1261021) and issued on July 12, 2016.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 27 of the Counterclaims.

28. Under Section 66(a) of the Trademark Act, a holder of an international registration under the Madrid Protocol may request that the United States Patent and Trademark Office ("USPTO") extend protection of that international registration to the U.S.

**ANSWER:** Paragraph 28 of the Counterclaims consists of a legal conclusion to which no answer is required.

29. Upon information and belief, Registrant, at the time of filing the request to

extend protection, declared its intention to use the mark in the United States.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 29 of the Counterclaims.

30. Upon information and belief, Registrant did not have a bona fide intent to use the mark in connection with at least the following goods listed in Registration No. 4995379 at the time of filing the application for registration under Section 66(a) on February 2, 2015, nor did it have a bona fide intent to use the mark after the time the Registration issued on July 12, 2016 or afterward:

- kit bags, toiletry bags for travel, shoe bags for travel, beach bags, luggage, bum bags, handbags, key cases, tote bags, shoulder bags, satchels, suitcases, luggage trunks, travelling trunks; parts and fittings for all the aforesaid goods, in the nature of leather straps; umbrellas in International Class 18;
- articles of clothing, namely, men's, women's and children's apparel, namely, blouses, sweaters, cardigans, camisoles, jerseys, trousers, capris, shorts, jeans, suits, neckties, blazers, dresses, gowns, skirts, vests, overcoats, leather pants, rainwear, ponchos, jumpers, jumpsuits, athletic shorts, track suits, sweat suits, gym shorts, gym suits, sleepwear, robes, bathrobes, night gowns, pajamas, swimwear, swim suits, bathing suits, bikinis, board shorts, beach coverups, beachwear, coveralls, undergarments, underwear, undershirts, boxer shorts, boxer briefs, body shapers, body suits, bras, brassieres, stockings, slippers, lingerie, legwarmers, leggings, leotards, bandanas, shawls, ear muffs, infantwear, infant sleepers, bib overalls, in International Class 25; and
- wholesale and retail store services of articles of soaps, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, headphones, mouse mats, bags adapted for carrying photographic apparatus, bags adapted for carrying

video apparatus, bags adapted for carrying cameras, battery holders, cassette tape holders, compact disc holders, MP3 holders, holders adapted for the display and storage of audio and video cassettes and discs, holders adapted for compact discs, holders for the transport of cassettes and discs, downloadable music files, downloadable video files, music recordings, musical video recordings, jewelry, jewelry chains, pins being jewelry, precious stones, earrings, key fobs and rings, badges of precious metal, beach bags, luggage, bum bags, key cases, tote bags, umbrellas, satchels, suitcases, luggage trunks, travelling trunks in International Class 35.

**ANSWER:** All Saints denies the allegations in Paragraph 30 of the Counterclaims.

31. Registrant has therefore abandoned the mark appearing in Registration No. 4995379 in part.

**ANSWER:** All Saints denies the allegations in Paragraph 31 of the Counterclaims.

#### **ANSWER TO FIFTH COUNTERCLAIM**

##### **Cancellation of U.S. Trademark Reg. No. 4570963 In Part Based on Abandonment**

32. Blitz repeats and realleges each of the allegations contained in Paragraphs 1-31 of these Counterclaims as if fully set forth herein.

**ANSWER:** All Saints repeats and incorporates its answers to all of the preceding allegations within Paragraphs 1-31 as if fully set forth herein.

33. U.S. Trademark Reg. No. 4570963 was issued on July 22, 2014.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 33 of the Counterclaims.

34. Upon information and belief, Registrant is not currently offering at least the following goods listed in Registration No. 4570963 in the United States in connection with the above-referenced mark:

- articles of soaps, namely, beauty soaps, bath soaps, and cream soaps, essential oils, cosmetics, non-medicated skin preparations, hair lotions, shampoos, conditioners, shaving

preparations and after-shave preparations, deodorants for personal use, dentifrices, lip balm, eye creams and gels, sunscreen and sun-tanning preparations, cleaning preparations and exfoliators, namely, exfoliating pad containing a glycolic ingredient not for medical purposes, laundry preparations, namely, laundry detergents, bath and shower foams and gels, bath and shower preparations, namely, gels and salts not for medical purposes and depilatory preparations in International Class 3;

- headphones; mouse mats; bags adapted for carrying photographic apparatus, video apparatus, cameras; battery holders; cassette tape holders; compact disc holders; MP3 holders; holders specially adapted for use with mobile phones; holders adapted for the display and storage of audio and video cassettes and discs; holders specially adapted for use with compact discs; holders for the transport of cassettes and discs; downloadable music files; downloadable video files featuring musical performances; music recordings; musical video recordings, in International Class 9;
- jewellery, precious stones, earrings, key fobs and key rings of precious metal, badges of precious metal, buckles for watchstraps, jewellery chains, lapel pins, in International Class 14,
- beach bags, luggage, bum bags, handbags, keycases, tote bags, shoulder bags, shoulder belts made of leather or imitation leather, umbrellas, satchels, suitcases, trunks, in International Class 18;
- articles of clothing, namely, trousers, suits, blouses, dresses, skirts, shorts, jeans, overcoats, athletic shorts, sweat suits, track suits in International Class 25; and
- retail store and wholesale store services featuring articles of soaps, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, headphones,



mouse mats, mobile phone accessories, bags adapted for carrying photographic apparatus, bags adapted for carrying video apparatus, bags adapted for carrying cameras, battery holders, cassette tape holders, compact disc holders, MP3 holders, holders adapted for the display and storage of audio and video cassettes and discs, holders adapted for compact discs, holders for the transport of cassettes and discs, downloadable music files, downloadable video files, music recordings, musical video recordings, jewellery, precious stones, earrings, key fobs and rings, badges, buckles, chains, pins, beach bags, luggage, bum bags, keycases, tote bags, umbrellas, satchels, suitcases, trunks, parts and fittings for all the aforesaid goods, in International Class 35.

**ANSWER:** All Saints denies the allegations in Paragraph 34 of the Counterclaims.

35. Upon information and belief, Registrant has not used the mark in commerce with such goods for at least three (3) years and Registrant has no intention to resume bona fide use of the mark in the ordinary course of Registrant's trade in the foreseeable future.

**ANSWER:** All Saints denies the allegations in Paragraph 35 of the Counterclaims.

36. Registrant has therefore abandoned the mark appearing in Registration No. 4570963 in part.

**ANSWER:** All Saints denies the allegations in Paragraph 36 of the Counterclaims.

#### **ANSWER TO SIXTH COUNTERCLAIM**

#### **Cancellation of U.S. Trademark Reg. No. 4570963 In Part Based on Lack of Bona Fide Intent to Use at the Time of Filing Application for Registration**

37. Blitz repeats and realleges each of the allegations contained in Paragraphs 1-36 of these Counterclaims as if fully set forth herein.

**ANSWER:** All Saints repeats and incorporates its answers to all of the preceding allegations within Paragraphs 1-36 as if fully set forth herein.

38. U.S. Trademark Reg. No. 4570963 was filed on June 19, 2013 and issued on July 22, 2014.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 38 of the Counterclaims.

39. Registrant submitted a verified statement affirming a bona fide intent to use a mark as part of the application process. Exhibit C.

**ANSWER:** All Saints refers to the TESS Record for the accuracy of the USPTO records averred in Paragraph 39 of the Counterclaims.

40. Upon information and belief, Registrant did not have a bona fide intent to use the mark in connection with at least the following goods listed in Registration No. 4570963 at the time of filing the application for registration under Section 44(e) of the Lanham Act:

- articles of soaps, namely, beauty soaps, bath soaps, and cream soaps, essential oils, cosmetics, non-medicated skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants for personal use, dentifrices, lip balm, eye creams and gels, sunscreen and sun-tanning preparations, cleaning preparations and exfoliators, namely, exfoliating pad containing a glycolic ingredient not for medical purposes, laundry preparations, namely, laundry detergents, bath and shower foams and gels, bath and shower preparations, namely, gels and salts not for medical purposes and depilatory preparations in International Class 3;
- headphones; mouse mats; bags adapted for carrying photographic apparatus, video apparatus, cameras; battery holders; cassette tape holders; compact disc holders; MP3 holders; holders specially adapted for use with mobile phones; holders adapted for the display and storage of audio and video cassettes and discs; holders specially adapted for use with compact discs; holders for the transport of cassettes and discs; downloadable music files; downloadable video files featuring musical performances; music recordings; musical video recordings, in International Class 9;
- jewellery, precious stones, earrings, key fobs and key rings of precious metal, badges of precious metal, buckles for watchstraps, jewellery chains, lapel pins, in International Class

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- beach bags, luggage, bum bags, handbags, keycases, tote bags, shoulder bags, shoulder belts made of leather or imitation leather, umbrellas, satchels, suitcases, trunks, in International Class 18;
- articles of clothing, namely, trousers, suits, blouses, dresses, skirts, shorts, jeans, overcoats, athletic shorts, sweat suits, track suits in International Class 25; and
- retail store and wholesale store services featuring articles of soaps, essential oils, cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower foams and gels, bath and shower preparations and depilatory compositions, headphones, mouse mats, mobile phone accessories, bags adapted for carrying photographic apparatus, bags adapted for carrying video apparatus, bags adapted for carrying cameras, battery holders, cassette tape holders, compact disc holders, MP3 holders, holders adapted for the display and storage of audio and video cassettes and discs, holders adapted for compact discs, holders for the transport of cassettes and discs, downloadable music files, downloadable video files, music recordings, musical video recordings, jewellery, precious stones, earrings, key fobs and rings, badges, buckles, chains, pins, beach bags, luggage, bum bags, keycases, tote bags, umbrellas, satchels, suitcases, trunks, parts and fittings for all the aforesaid goods, in International Class 35.

**ANSWER:** All Saints denies the allegations in Paragraph 40 of the Counterclaims.

41. Registrant has therefore abandoned the mark appearing in Registration No. 4570963 in part.

**ANSWER:** All Saints denies the allegations in Paragraph 41 of the Counterclaims.

**AFFIRMATIVE DEFENSES**

1. The Counterclaims fail to state a claim upon which relief may be granted.
2. The Counterclaims are barred by the doctrines of laches, equitable estoppel, judicial estoppel, unclean hands, waiver and acquiescence.
3. To the extent there was non-use of the challenged marks, it was excusable non-use, with intent to resume use.

All Saints reserves its right to assert any and all additional defenses that become known or available to it as a result of information developed through discovery or at trial.

WHEREFORE, All Saints requests that the Board deny the relief sought in the Counterclaims, and grant Opposer such other and further relief as to the Board may deem proper.

Dated: December 19, 2019  
New York, NY

Respectfully submitted,

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*for Opposer ALL SAINTS RETAIL LTD.*

**CERTIFICATE OF SERVICE**

I certify that on December 19, 2019 a copy of the foregoing OPPOSER'S ANSWER TO APPLICANT'S COUNTERCLAIMS AND OPPOSER'S AFFIRMATIVE DEFENSES is being served upon Applicant by email to Applicant's counsel as follows:

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