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

Proceeding	91251084
Party	Defendant Tobkin, Joshua Daesung
Correspondence Address	DARRIN HEA LAW, PLLC 9TH FLOOR 1765 GREENSBORO STATION PLACE MCLEAN, VA 22102 darrin@hea-ip.com, usptomail@hea-ip.com no phone number provided
Submission	Answer
Filer's Name	Darrin A. Auito
Filer's email	darrin@hea-ip.com, usptomail@hea-ip.com
Signature	/Darrin A. Auito/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 88/066,397
Published in the *Official Gazette* July 23, 2019

Unity IPR ApS,

Opposer,

Opposition No. 91251084

v.

Tobkin, Joshua Daesung,

Applicant.

**APPLICANT'S ANSWER
TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES**

Tobkin, Joshua Daesung (“Applicant”), pursuant to 37 C.F.R. by and through his attorneys, hereby submits his answer to the Notice of Opposition filed by Unity IPR ApS (“Opposer”) against application for registration of Applicant’s trademark UNITYCHAIN, serial no. 88/066,397 filed August 6, 2018 and published in the Official Gazette of July 23, 2019 (the “Application”).

The following numbered paragraphs correspond to the numbers of the paragraphs of the Notice of Opposition, under the heading used in the Notice of Opposition. To the extent any allegation is not specifically admitted, it is denied. To the extent any additional unnumbered paragraphs, captions or headings in the Notice of Opposition are treated as allegations, such allegations are hereby denied.

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Notice of Opposition, and on that basis

denies each and every allegation thereof. Applicant further avers that Opposer is not the only owner of a mark or marks which incorporate the word UNITY.

2. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Notice of Opposition, and on that basis denies each and every allegation thereof.
3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Notice of Opposition, and on that basis denies each and every allegation thereof.
4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Notice of Opposition, and on that basis denies each and every allegation thereof.
5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Notice of Opposition, and on that basis denies each and every allegation thereof.
6. Applicant admits the allegations of paragraph 6 of the Notice of Opposition.
7. Applicant repeats and incorporates by reference the preceding answers in response to paragraph 7 of the Notice of Opposition
8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Notice of Opposition, and on that basis denies each and every allegation thereof.
9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Notice of Opposition, and on that basis denies each and every allegation thereof.

10. Applicant denies the allegations of paragraph 10 of the Notice of Opposition.
11. Applicant denies the allegations of paragraph 11 of the Notice of Opposition.
12. To the extent paragraph 12 of the Notice of Opposition calls for a legal conclusion, no response is necessary. Applicant otherwise denies each and every allegation contained in this paragraph.
13. To the extent paragraph 13 of the Notice of Opposition calls for a legal conclusion, no response is necessary. Applicant otherwise denies each and every allegation contained in this paragraph.
14. Applicant repeats and incorporates by reference the preceding answers in response to paragraph 14 of the Notice of Opposition
15. To the extent paragraph 15 of the Notice of Opposition calls for a legal conclusion, no response is necessary. Applicant otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence in Paragraph 15 of the Notice of Opposition, and on that basis denies each and every allegation thereof. Applicant otherwise denies each and every allegation contained in the second sentence contained in Paragraph 15 of the Notice of Opposition.
16. To the extent paragraph 16 of the Notice of Opposition calls for a legal conclusion, no response is necessary. Applicant otherwise denies each and every allegation contained in this paragraph.

AFFIRMATIVE DEFENSES

In addition to the foregoing, and as separate and distinct affirmative defenses to Opposer's claims, Applicant alleges as follows:

FIRST AFFIRMATIVE DEFENSE

Opposer lacks standing because there is no basis for Opposer's belief that it would be damaged by continued registration of the Application.

SECOND AFFIRMATIVE DEFENSE

Opposer is not entitled to a scope of protection wide enough to prohibit continued registration of the Application. Opposer's deficiencies include the failure to establish a likelihood of confusion between UNITYCHAIN and the alleged trademarks of Opposer. There is no likelihood of confusion, mistake, or deception because, *inter alia*, the Mark and the alleged trademarks of Opposer are not confusingly similar, the UNITYCHAIN Goods are not similar goods to those goods purportedly in use by the alleged trademarks of Opposer, and there is no actual confusion and Opposer has not identified any instances of actual confusion in its Notice of Opposition.

THIRD AFFIRMATIVE DEFENSE

Opposer's claims are barred, in whole or in part, by the doctrine of unclean hands. Applicant is a small business that is harmed by Opposer's litigation tactics where Opposer attempts to enforce its alleged trademark rights beyond a reasonable interpretation of the scope of the rights granted to the trademark owner.

FURTHER AFFIRMATIVE DEFENSES

Applicant is without sufficient information to know at the present time whether additional affirmative defenses may be applicable to this action. Accordingly, Applicant reserves the right to assert further affirmative defenses should it learn that any such defenses are available.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed in its entirety, with prejudice, and that Applicant's mark be allowed to proceed to registration.

Joshua Daesung Tobkin has appointed Darrin A. Auito, a partner of the law firm of HEA Law, PLLC, a member of the State Bar of Michigan, to represent and prosecute this opposition proceeding, and to transact all business in and before the USPTO in connection herewith.

Respectfully submitted,

HEA LAW, PLLC.
Attorneys for Joshua Daesung Tobkin

Date: October 30, 2019

By: /Darrin A. Auito/
Darrin A. Auito
HEA Law, PLLC.
1765 Greensboro Station Place
9th Floor
McLean, VA 22102
(571) 933-6437

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Applicant's Answer to Notice of Opposition and Affirmative Defenses has been served on John M. Kim (Opposer's counsel) by forwarding said copy on October 30, 2019, via email to:

John M. Kim – litigation@ipla.com

Signature: /Darrin A. Auito/
 Darrin A. Auito

Date: October 30, 2019