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

Proceeding	91253105
Party	Defendant Hills Point Industries, LLC
Correspondence Address	DAVID S. JACOBSON GORDON & JACOBSON, P.C. 60 LONG RIDGE ROAD, SUITE 407 STAMFORD, CT 06902 pto@gordonjacobson.com no phone number provided
Submission	Answer
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Date	03/30/2020
Attachments	Answer of Hills Point-OPP006_1.pdf(165688 bytes)

IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE BEFORE THE TRADEMARK
TRIAL AND APPEAL BOARD
Serial No. 88184698
Opposition No. 91253105

Chubby Gorilla, Inc.,)
 Opposer)
)
 v.)
)
Hills Point Industries, LLC,)
 Applicant)

ANSWER OF HILLS POINT INDUSTRIES, LLC

Applicant Hills Point Industries, LLC (“Applicant” or “HPI”), owner of US Serial No. 88184698, (the “’698 Application”) filed November 7, 2018, for the mark GORILLA GRIP for drawer organizers; wall-mounted tool racks; non-metal hardware, namely, wall-mounted brackets for storing ironing boards, mops, brooms; bath kneeling pads; kneeling pads for household and garden use, all in International Class 20; and cheese board and knife set; ironing board covers; laundry baskets; lemon squeezers; non-electric portable beverage coolers; mortars and pestles for kitchen use; spice jars sold empty; organizers for use with food storage containers, namely, spice jars, all in International Class 21.

Opposer opposes Applicant’s registration of only the goods spice jars sold empty; organizers for use with food storage containers, namely, spice jars, all in International Class 21 in the ‘698 Application, and responds to the Notice of Opposition as follows:

First Defense

Applicant denies that the alleged belief of Opposer is reasonable that Opposer is or will be damaged if the ‘698 Application is registered.

Second Defense

Applicant responds to the numbered paragraphs of the Notice of Opposition accordingly:

1. Applicant denies the allegations of Par. 1 on the grounds that it lacks knowledge or information sufficient to form a belief about the truth of such allegations.

2. Applicant denies the allegations of Par. 2 on the grounds that it lacks knowledge or information sufficient to form a belief about the truth of such allegations.

3. Applicant admits that Opposer is listed as the owner of US Reg. No. 4949119 (the “119 Registration”) for the mark CHUBBY GORILLA for reusable glass bottles, sold empty, not for medical use, not for drinking purposes; reusable plastic bottles, sold empty, not for medical use, not for drinking purposes in International Class 21 in the records of the United States Trademark Office. Applicant admits that the date of application and registration of the mark shown in the ‘119 Registration are both prior to the date Applicant filed the ‘698 Application.

4. Applicant admits that Opposer is listed as the owner of US Reg. No. 5053505 (the “505 Registration”) for the mark CHUBBY GORILLA and design for reusable glass bottles, sold empty, not for medical use, not for drinking purposes; reusable plastic bottles, sold empty, not for medical use, not for drinking purposes in International Class 21 in the records of the United States Trademark Office. Applicant admits that the date of application and registration of the mark shown in the ‘505 Registration are both prior to the date Applicant filed the ‘698 Application.

5. Applicant admits that Opposer is listed as the owner of US Reg. No. 5223288 (the “288 Registration”) for the mark CHUBBY GORILLA and design for reusable glass dropper bottles for administering medication sold empty; reusable plastic dropper bottles for administering medication sold empty in international class 10; and reusable glass containers and vials sold empty for personal use; reusable plastic containers and vials for medications sold empty for personal in international class 21; in the records of the United States Trademark Office. Applicant admits that

the date of application and registration of the mark shown in the '288 Registration are both prior to the date Applicant filed the '698 Application.

6. Applicant denies the allegations of Par. 6 on the grounds that it presently lacks knowledge or information sufficient to form a belief about the validity of the '505 Registration, '288 Registration, and '119 Registration (“Chubby Gorilla’s Registrations”).

7. Applicant denies that there is a substantial similarity between the marks in Chubby Gorilla’s Registrations and the mark in Applicant’s '698 Application as to be likely to cause confusion or to cause mistake or to deceive.

8. Applicant denies the allegations of Par. 8 on the grounds that it lacks knowledge or information sufficient to form a belief thereabout.

9. Applicant denies the allegations of Par. 9 that there is substantial similarity between the marks GORILLA GRIP and CHUBBY GORILLA as well as a related nature of the goods and services of the respective parties as to be likely to cause confusion or to cause mistake or to deceive.

10. Applicant denies the allegations of Par. 10 on the grounds that it lacks knowledge or information sufficient to form a belief thereabout.

11. Applicant denies the allegations of Par. 11 on the grounds that it lacks knowledge or information sufficient to form a belief thereabout.

12. Applicant denies the allegations of Par. 12.

13. Applicant denies the allegations of Par. 13 on the grounds that it lacks knowledge or information sufficient to form a belief thereabout.

14. Applicant denies the allegations of Par. 14 on the grounds that it lacks knowledge or information sufficient to form a belief thereabout.

15. Applicant denies the allegations of Par. 15 on the grounds that it lacks knowledge or information sufficient to form a belief thereabout.

16. Applicant denies the allegations of Par. 16 on the grounds that it lacks knowledge or information sufficient to form a belief thereabout.

17. Applicant denies the allegations of Par. 17 on the grounds that it lacks knowledge or information sufficient to form a belief thereabout.

18. Applicant denies the allegations of Par. 18.

19. Applicant denies the allegations of Par. 19.

20. Applicant denies the allegations of Par. 20.

21. Applicant denies the allegations of Par. 21.

22. Applicant admits the allegations of Par. 22.

23. Applicant admits the allegations of Par. 23.

24. Applicant admits the allegations of Par. 24.

25. Applicant admits the allegations of Par. 25.

26. Applicant admits the allegations of Par. 26.

27. Applicant denies the allegations of Par. 27.

28. Applicant denies the allegations of Par. 28.

29. Applicant denies the allegations of Par. 29.

30. Applicant denies the allegations of Par. 30.

31. Applicant denies the allegations of Par. 31.

32. Applicant denies the allegations of Par. 32.

33. Applicant denies the allegations of Par. 33.

34. Applicant denies the allegations of Par. 34.

35. Applicant denies the allegations of Par. 35.

36. Applicant denies the allegations of Par. 36.

37. Applicant denies the allegations of Par. 37.

38. Applicant denies the allegations of Par. 38.

39. Applicant denies the allegations of Par. 39.

40. Applicant denies the allegations of Par. 40, as no services are listed in the '698 Application.

41. Applicant denies the allegations of Par. 41.

42. Applicant admits the allegations of Par. 42.

43. Applicant denies the allegations of Par. 43.

44. Applicant denies the allegations of Par. 44.

45. Applicant denies the allegations of Par. 45.

Third Defense

Opposer has not owned or used a mark that is identical or similar to Applicant's mark, GORILLA GRIP.

Fourth Defense

Opposer has not owned or used a mark that is identical or similar to Applicant's mark, GORILLA GRIP, prior to the November 18, 2018 filing date of the '698 Application.

Fifth Defense

Applicant is the senior user of the mark, GORILLA GRIP, as compared with Opposer's use of any mark Opposer claims to be the same or similar.

Sixth Defense

There would be no likelihood of confusion, mistake, or deception occurring to Opposer if the '698 Application were to be registered.

Seventh Defense

Applicant is the owner of and relies on United States Trademark Registration No. 5060102 (the “’102 Registration”) for the mark GORILLA GRIP for kitchen utensils, namely oven mitts and cutting boards in International Class 21, which was filed on the Principal Register November 13, 2014 and Registered on October 11, 2016. (’102 Registration attached as Exhibit A.) The filing date of the ’102 Registration is prior to any filing date of the Chubby Gorilla Registrations in International Class 21. To the extent there would be any likelihood of confusion, mistake, or deception, then Applicant has prior rights to the GORILLA GRIP mark in International Class 21 and goods used in the kitchen in association with kitchen utensils including spice jars sold empty; and organizers for use with food storage containers, namely, spice jars.

PRAYER FOR RELIEF

WHEREFORE, Applicant Hills Point Industries, LLC requests that the Trademark Trial and Appeal Board:

1. Order that the Notice of Opposition be denied and dismissed with prejudice;
2. Permit Applicant to proceed with the registration of US Serial No. 88184698; and
3. Enter such other and further relief as it deems just and proper.

This the 30th day of March 2020.

ATTORNEYS FOR APPLICANT
HILLS POINT INDUSTRIES, LLC

By: /David S Jacobson/
David S. Jacobson
Member, CT, NY & NJ Bars
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Hills Point Industries, LLC

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March 30, 2020

EXHIBIT A

United States of America

United States Patent and Trademark Office

GORILLA GRIP

Reg. No. 5,060,102

Registered Oct. 11, 2016

Int. Cl.: 21

Trademark

Principal Register

Hills Point Industries, LLC (CONNECTICUT LIMITED LIABILITY COMPANY)
2 Grouse Path
Westport, CT 06880

CLASS 21: Kitchen utensils, namely, oven mitts and cutting boards

FIRST USE 8-19-2016; IN COMMERCE 8-19-2016

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown:
"GRIP"

SER. NO. 86-453,154, FILED 11-13-2014
MARYNELLE WEST WILSON, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer of Hills Point Industries, LLC has been served on Opposer Chubby Gorilla, LLC by forwarding said copy on March 30, 2020, via email, to:

Stacey R. Halpern
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This the 30th day of March 2020.

By: /David S Jacobson/
David S. Jacobson
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Attorney for Opposer
Hills Point Industries, LLC

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March 30, 2020