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Filing date: **03/06/2020**

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

Proceeding	91253804
Party	Defendant Birch Outfitters LLC
Correspondence Address	STACEY C. FRIENDS, ESQ. MORSE 4TH FLOOR 20 CITYPOINT, 480 TOTTEN POND ROAD WALTHAM, MA 02451 trademark2@morse.law no phone number provided
Submission	Answer
Filer's Name	Stacey C. Friends, Esq.
Filer's email	trademark2@morse.law
Signature	/stacey c. friends/
Date	03/06/2020
Attachments	Answer - Birch-Guess.pdf(97364 bytes)

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

In the Matter of Application Serial No.: **88/413,908**
Published in the Official Gazette on August 13, 2019

Guess? IP Holder L.P.

Opposer,

v.

Birch Outfitters LLC

Applicant

Consolidated Opposition No.: 91253804

ANSWER TO NOTICE OF OPPOSITION

Applicant, Birch Outfitters LLC, through its undersigned attorney, hereby responds to the Notice of Opposition filed by Guess? IP Holder L.P. and states for its Answer, with each numbered paragraph of the Answer corresponding to the numbered paragraphs of the Opposition as follows:

1. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the allegations of paragraph 1 of the Notice of Opposition and therefore denies the same.
2. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the allegations of paragraph 2 of the Notice of Opposition and therefore denies the same.
3. Admitted.
2. (second paragraph 2). Admitted.
3. (second paragraph 3) Admitted.
4. Admitted.

5. Admitted.
6. Admitted.
7. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the allegations of paragraph 7 of the Notice of Opposition and therefore denies the same.
8. Denied.
9. Denied.
10. Applicant notes that it filed its Application based on Section 1(b) Intent to Use, and thus, its use of the mark on all of the goods listed in its Application before its filing date is irrelevant. Regardless, Applicant lacks sufficient knowledge and information to form a belief as to what Opposer was informed and believes and therefore lacks sufficient knowledge and information to form a belief as to the truth of the allegations of paragraph 10 of the Notice of Opposition and therefore denies the same.
11. Denied.

WHEREFORE, Applicant requests that this Notice of Opposition be dismissed.

APPLICANT'S AFFIRMATIVE DEFENSES

12. Opposer's Notice of Opposition fails to state a claim upon which relief may be granted.
13. Opposer's claim is barred by acquiescence.
14. Opposer's claim is barred by laches and estoppel from now asserting its claim.
15. Opposer's claim is barred by unclean hands.

16. Opposer's claims may be barred by additional defenses that may arise or become known during the course of this matter and Registrant therefore reserves the right to assert such additional defenses based upon further investigation and discovery.

Applicant asks that the Notice of Opposition be dismissed and that judgment in favor of Applicant and against Opposer be entered.

Respectfully submitted,

BIRCH OUTFITTERS LLC

By its attorneys,

/stacey c. friends/

Stacey C. Friends
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I hereby certify that a true and complete copy of the foregoing Answer has been served on Michael J. MacDermott, Lewis Roca Rothgerber Christie LLP by forwarding said copy on March 6th, 2020 via email to:
pto@lrre.com
/stacey c. friends/
March 6, 2020