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Filing date: **07/21/2020**

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

Proceeding	91254617
Party	Defendant MOMO Innovation LLC
Correspondence Address	JENNIFER LEE TAYLOR MORRISON & FOERSTER LLP 425 MARKET STREET SAN FRANCISCO, CA 94105-2482 UNITED STATES Primary Email: JTaylor@mofo.com Secondary Email(s): JLiou@mofo.com, RRomain@mofo.com, TMDocket@mofo.com 415-268-6538
Submission	Answer
Filer's Name	Joyce Liou
Filer's email	JLiou@mofo.com, RRomain@mofo.com, KSamia@mofo.com, CBurns@mofo.com, TMDocket@mofo.com
Signature	/Joyce Liou/
Date	07/21/2020
Attachments	Applicants Answer to Notice of Opposition.pdf(165190 bytes)

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

MomoIP LLC,
Opposer,

vs.

MOMO Innovation LLC,
Applicant.

Opposition No.: 91254617
Application Serial No.: 88/477,688
Filing Date: June 18, 2019
Mark: MOMO NOODLE

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

MOMO Innovation LLC (“Applicant”) hereby answers the Notice of Opposition to Application No. 88/477,688 (“Notice of Opposition”) filed by MomoIP LLC (“Opposer”):

FACTS

A. Opposer

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 the allegations therein.

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 the allegations therein.

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 the allegations therein.

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 the allegations therein.

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 the allegations therein.

6. Applicant states that to the extent the allegations in Paragraph 6 of the Notice of Opposition state conclusions of law, no response is required. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 6 of the Notice of Opposition, and on that basis, denies the remaining allegations therein.

7. Applicant states that to the extent the allegations in Paragraph 7 of the Notice of Opposition state conclusions of law, no response is required. Applicant denies that the registration date of U.S. Registration No. 4,312,535 is April 3, 2013. Applicant admits that the remaining allegations in Paragraph 7 of the Notice of Opposition accurately reflect the USPTO records for U.S. Registration Nos. 3,241,296, 4,984,580, 4,984,581, 5,881,309, 3,364,565, 4,312,535, 4,988,805, and 4,200,140, and U.S. Application Serial No. 87/397,643, but Applicant lacks knowledge or information sufficient to form a belief as to the accuracy of the USPTO records, and on that basis, denies the allegations regarding Opposer's exclusive rights in Paragraph 7. Applicant admits that Exhibit 1 contains printouts from the USPTO's TSDR database. To the extent that any of the allegations in Paragraph 7 of the Notice of Opposition purport to summarize or state the contents of those printouts, the printouts speak for themselves, and Applicant denies any characterization of the printouts that is inconsistent with their contents.

Except as expressly admitted or otherwise stated, Applicant denies the allegations in Paragraph 7 of the Notice of Opposition.

B. Applicant

8. Applicant states that to the extent the allegations in Paragraph 8 of the Notice of Opposition state conclusions of law, no response is required. Applicant admits that on June 18, 2019 it filed an application to register the MOMO NOODLE mark for “Mobile café services for providing food and drink; Mobile restaurant services; Providing of food and drink via a mobile truck; Restaurant services” in International Class 43. Applicant admits that the registration dates for the MOMOFUKU registrations discussed in Paragraph 7 of the Notice of Opposition predate the filing date for Applicant’s MOMO NOODLE mark. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 8 of the Notice of Opposition, and on that basis, denies the remaining allegations therein.

9. Applicant admits the allegations in Paragraph 9 of the Notice of Opposition.

10. Applicant states that to the extent the allegations in Paragraph 10 of the Notice of Opposition state conclusions of law, no response is required. Applicant admits that Opposer had previously obtained extensions of time to oppose Applicant’s MOMO NOODLE application. Except as expressly admitted or otherwise stated, Applicant denies the allegations in Paragraph 10 of the Notice of Opposition.

**FIRST GROUND FOR OPPOSITION
LIKELY TO CAUSE CONFUSION, OR TO CAUSE MISTAKE, OR TO DECEIVE
15 U.S.C. § 1052(d)**

11. Applicant hereby realleges and incorporates by reference each and every preceding paragraph of this Answer as if set forth herein.

12. Applicant states that to the extent the allegations in Paragraph 12 of the Notice of Opposition state conclusions of law, no response is required. Except as otherwise stated, Applicant denies the allegations in Paragraph 12 of the Notice of Opposition.

13. Applicant states that to the extent the allegations in Paragraph 13 of the Notice of Opposition state conclusions of law, no response is required. Applicant admits that certain of the registrations discussed in Paragraph 7 of the Notice of Opposition and Applicant's MOMO NOODLE application identify "restaurant services." Except as expressly admitted or otherwise stated, Applicant denies the allegations in Paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations in Paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations in Paragraph 15 of the Notice of Opposition.

**SECOND GROUND FOR OPPOSITION
DILUTION OF A FAMOUS MARK
15 U.S.C. § 1125(c)(1)**

16. Applicant hereby realleges and incorporates by reference each and every preceding paragraph of this Answer as if set forth herein.

17. Applicant denies the allegations in Paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegations in Paragraph 18 of the Notice of Opposition.

19. Applicant denies the allegations in Paragraph 19 of the Notice of Opposition.

20. Applicant denies the allegations in Paragraph 20 of the Notice of Opposition.

21. Applicant states that a response to Paragraph 21 is not required.

REQUEST FOR RELIEF

WHEREFORE, Applicant asks:

1. The Opposer's Notice of Opposition be dismissed with prejudice;

2. That Applicant's U.S. Application Serial No. 88/477,688 be approved for publication; and

3. That any such further relief be granted to Applicant as may be deemed appropriate.

Respectfully submitted,

Dated: July 21, 2020

By: /Joyce Liou/

Joyce Liou
Attorney for Applicant
MOMO Innovation LLC

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6538
Facsimile: (415) 268-7522

CERTIFICATE OF SERVICE

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on July 21, 2020, I served a copy of:

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

by electronically mailing a true and correct copy through Morrison & Foerster LLP's electronic mail system to the email address(es) set forth below.

Attorney for Opposer

Marc A. Lieberstein and Rita Weeks (tmadmin@kilpatricktownsend.com, nytrademarks@kilpatricktownsend.com, mlieberstein@kilpatricktownsend.com, gsimon@kilpatricktownsend.com, prosenberg@kilpatricktownsend.com, aweber@kilpatricktownsend.com, rweeks@kilpatricktownsend.com, rpotter@kilpatricktownsend.com)

Kilpatrick Townsend & Stockton LLP
1114 Avenue of the Americas
New York, NY 10036

I declare under penalty of perjury under the laws of the United States that the above is true and correct.

Executed at San Francisco, California, this 21st day of July, 2020.

Ryan Romain
(typed)

/Ryan Romain/
signature