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

Proceeding	91263671
Party	Defendant Wolfgang Joop
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Attachments	Wolfgang Joop Answer to Wolfgang Puck NOP.pdf(99460 bytes)

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

Wolfgang Puck and Wolfgang Puck Licensing LLC)	Opposition No. 91263671
Opposer,)	Serial No. 79263615
v.)	
)	
Wolfgang Joop)	
Applicant.)	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant Mr. Wolfgang Joop (“Applicant”), by and through its attorneys, hereby answers the Notice of Opposition filed in the above-identified proceeding by Opposer Wolfgang Puck and Wolfgang Puck Licensing LLC (collectively “Opposer”). Applicant generally denies all the allegations except those designated allegations or paragraphs that are expressly admitted.

1. Puck is a United States citizen with an address in West Hollywood, California.

ANSWER TO PARAGRAPH 1: Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 1 of the Notice of Opposition and thus denies them.

2. Licensing is a limited liability company organized and existing under the laws of the State of Nevada with offices in Las Vegas, Nevada.

ANSWER TO PARAGRAPH 2: Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 2 of the Notice of Opposition and thus denies them.

3. Applicant Wolfgang Joop (“Joop”) is an individual who resides in Potsdam, Germany. On information and belief, Joop is known in the fashion and cosmetics industries specifically in connection with clothing, shoes, and jewelry.

ANSWER TO PARAGRAPH 3: Denied except to admit that Applicant's address as identified in the application at issue is Potsdam, Germany.

4. On April 30, 2019, Joop filed Application Serial No. 79263615 to register the claimed mark "THE WOLFGANG" on the Principal Register and for extension of an International Registration No. 1478565 in International classes 42 and 43 concerning restaurants and restaurant design. Specifically, Joop applied to use the mark for "design of restaurants, namely interior and architectural design; furnishing design services for the interiors of buildings; design building interiors; interior designs" and "services for providing food and drink, namely, food and drink catering, bar and restaurant services; providing temporary accommodation; hotel services; bar and restaurant services" on the basis of Joop's alleged intention to use the claimed mark in commerce.

ANSWER TO PARAGRAPH 4: The prosecution history of Applicant's federally applied-for mark is public record at the United States Patent and Trademark Office. Opposer's interpretation of said public record is not proper as an averment and on that basis Applicant denies the allegations of paragraph 4 of the Notice of Opposition.

5. Puck is a world-renowned chef and restaurateur. He has also designed some of the most iconic restaurants such as Spago, Chinois on Main, Cut, and many more. From a time long prior to the filing date of Joop's Application, or any earlier date of actual use of the mark shown in Joop's application upon which Joop can rely, and continuously to the present, Licensing and/or its predecessor-in-interest have used, and licensed the use of, and continue to use and license the use of the mark "WOLFGANG PUCK" in the United States in connection with restaurant services, restaurants, a wide variety of foods, packaged, frozen, and prepared food, and cooking utensils and products. Puck assigned the "Wolfgang Puck" mark to Licensing in 2011. The "Wolfgang Puck" mark became famous long prior to the filing date of Joop's application, or any earlier date of actual use of the mark shown in Joop's Application upon which Joop can rely.

ANSWER TO PARAGRAPH 5: Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 5 of the Notice of Opposition and thus denies them.

6. Licensing owns United States Trademark Registration No. 1901065 for the mark "WOLFGANG PUCK" for restaurant services. This registration is valid and

subsisting and has become incontestable. A copy of the record of this registration taken from the TSDR electronic database of the Patent and Trademark Office and showing the current status and title of this registration is attached hereto as Exhibit 1 and incorporated by this reference.

ANSWER TO PARAGRAPH 6: The prosecution history of Opposer's federally registered mark is public record at the United States Patent and Trademark Office. Opposer's interpretation of said public record is not proper as an averment and on that basis Applicant denies the allegations of paragraph 6 of the Notice of Opposition.

7. Joop's use of the mark in his Application in connection with the identified services is likely to cause consumers of those services to believe mistakenly that those services originate with, or are sponsored, licensed, or authorized by Licensing or are otherwise affiliated with Puck.

ANSWER TO PARAGRAPH 7: Denied.

8. Licensing repeats and realleges the allegations in paragraphs 1 through 7 as if fully set forth herein.

ANSWER TO PARAGRAPH 8: Applicant repeats and realleges its answers to paragraphs 1 through 7 as if fully set forth herein.

9. The mark "THE WOLFGANG" as shown in Joop's Application so resembles Licensing's registered mark "WOLFGANG PUCK" for restaurant services as to be likely, when used on or in connection with the services identified by Joop in his Application, to cause confusion, to cause mistake, or to deceive, that Joop's Application is unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d). This conclusion, and the intent to deceive, is manifest given Puck's famous identification with restaurants and food and Joop's identification solely with clothing and jewelry design.

ANSWER TO PARAGRAPH 9: Denied.

10. Licensing will be damaged by registration of the mark shown in Joop's Application because such registration will give Joop prima facie evidence of ownership of and the exclusive right to use a mark that is confusingly similar to Licensing's registered mark, in derogation of Licensing's rights in its registered mark.

ANSWER TO PARAGRAPH 10: Denied.

11. Licensing repeats and realleges the allegations in paragraphs 1 through 7 as if fully set forth herein.

ANSWER TO PARAGRAPH 11: Applicant repeats and realleges its answers to paragraphs 1 through 7 as if fully set forth herein.

12. "THE WOLFGANG" mark as shown in Joop's Application so resembles Licensing's mark "WOLFGANG PUCK" previously used in the United States in connection with restaurant services, foods, and food and cooking products, and not abandoned, as to be likely, when used on or in connection with the services identified in Joop's Application, to cause confusion, or to cause mistake, or to deceive, that Joop's mark is therefore unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

ANSWER TO PARAGRAPH 12: Denied.

13. Licensing will be damaged by registration of the mark shown in Joop's Application because such registration will give Joop prima facie evidence of ownership of and the exclusive right to use a mark that is confusingly similar to Licensing's previously-used and not-abandoned marks, in derogation of Licensing's rights in its mark.

ANSWER TO PARAGRAPH 13: Denied.

14. Puck repeats and alleges the allegations in paragraphs 1 through 7 as if fully set forth herein.

ANSWER TO PARAGRAPH 14: Applicant repeats and realleges its answers to paragraphs 1 through 7 as if fully set forth herein.

15. The mark in Joop's Application, "THE WOLFGANG" when used in connection with restaurant services, falsely suggests a connection with Wolfgang Puck. Why would Joop suggest using a mark related to his first and not his last name, in a proposed business with which he has had virtually no connection previously? The statement of the question reveals the answer: to falsely suggest a connection, in the restaurant business, with the world-famous Wolfgang Puck. This conclusion, and the intent to deceive, is manifest given Puck's famous identification with restaurants and food and Joop's identification solely with clothing and jewelry design.

ANSWER TO PARAGRAPH 15: Denied.

16. The mark in Joop's Application incorporates Puck's exact first name. That name points uniquely and unmistakably to Puck as related to the restaurant and food world. Puck has no previous connection with Joop in the restaurant business or otherwise. Puck is world-famous and the use of his first name in connection with restaurants would necessarily cause the public to presume a connection with him. Joop's mark in his Application falsely suggests a connection with Puck and is therefore unregistrable under § 2(a) of the United States Trademark Act, 15 U.S.C. § 1052(a).

ANSWER TO PARAGRAPH 16: Denied except to admit that both Mr. Puck and Mr. Joop have the same first name, which is Wolfgang.

17. Puck will be damaged by registration of the mark in Joop's Application because that registration will give Joop prima facie evidence of ownership of and the exclusive right to use a mark that will falsely suggest a connection with Puck.

ANSWER TO PARAGRAPH 17: Denied.

AFFIRMATIVE DEFENSES

1. Applicant's mark is not likely to cause confusion among consumers with Applicant's mark based on, but not limited to, the following: The marks are dissimilar in overall sound, appearance and meaning; Applicant's mark conveys a commercial impression upon consumers that is associated exclusively with Applicant; services rendered under Opposer's mark are not the same and/or are not related to the services to be rendered by Applicant under its mark; the channels of trade are dissimilar; the channels of distribution are dissimilar; the selectiveness of consumers in purchasing the parties' respective services are dissimilar; end purchasers and end users of each parties' services are not the same and are dissimilar; the advertising methods used or to be used by each company are dissimilar; and, Applicant selected

its mark in good faith, without the intent to trade on the goodwill of Opposer's marks, and without the intent to deceive, as enumerated in the Notice of Opposition.

2. Applicant's mark is registrable.
3. Applicant's mark does not falsely suggest a connection with Opposer.
4. Opposer's mark is not famous.
5. Registration of Applicant's mark will not dilute Opposer's mark.
6. Applicant is entitled to use his first name as a mark for the services identified in

the application at issue, and register that name as a mark with the United States Patent and Trademark Office.

7. The Notice of Opposition is barred by laches.
8. The Notice of Opposition is barred by estoppel.

WHEREFORE, Applicant seeks dismissal of the Notice of Opposition.

Respectfully submitted,

Wolfgang Joop

November 24, 2020

s/jak/
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address of record by email on this date: November 24, 2020.

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Respectfully submitted,
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_____s/jak/
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on November 24, 2020, the foregoing APPLICANT'S ANSWER TO OPPOSER'S NOTICE OF OPPOSITION is being transmitted electronically through ESTTA pursuant to 37 C.F.R. § 2.195(a) at the uspto.gov website.

_____s/jak/
One of the Attorneys for Applicant