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

Proceeding	91264275
Party	Defendant Rockin' Horse Farm, LLC
Correspondence Address	LISA M. BAIRD 915 MICHIGAN AVE PALM HARBOR, FL 34683 UNITED STATES Primary Email: lisambaird13@gmail.com Secondary Email(s): amyjbaird@gmail.com 323-244-3256
Submission	Answer
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Date	09/27/2020
Attachments	Answer Wilbur pdf.pdf(347152 bytes )

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

In the Matter of Application Serial No. 88/71,897  
For the mark Wilbur & Co  
Published in the Official Gazette on August 11, 2020

Wilbur-Ellis Company LLC,	)	
	)	
Opposers,	)	
	)	
vs.	)	Opposition No.: 91264275
	)	
Rockin' Horse Farm, LLC dba Happy	)	
Critter,	)	
	)	
Applicant.	)	

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**ANSWER TO NOTICE OF OPPOSITION**

Rockin' Horse Farm, LLC, also known as Rockin' Horse Farm, LLC DBA Happy Critter ("Applicant"), a Florida limited liability company, having a principal place of business at 4407 Grand Blvd., New Port Richey, Florida 34652, hereby answers Wilbur-Ellis Company LLC's ("Opposers") Notice of Opposition. Applicant denies any and all allegations in the Notice of Opposition except as expressly admitted herein, and otherwise responds to the Notice of Opposition as follows.

With respect to the allegations set forth in the non-numbered paragraph at the beginning of the Notice of Opposition, Applicant denies that Opposers "will be damaged" by registration of Applicant's mark.

With respect to the allegations set forth in the numbered paragraphs of the Notice of Opposition:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 1 and, on that basis, denies them.

2. Applicant Rockin' Horse Farm, LLC DBA Happy Critter admits the allegation in Paragraph 2 that it is a Florida limited liability company having its principal place of business at 4407 Grand Blvd, New Port Richey, FL 34652.

3. Applicant admits that it promotes, sells, and/or otherwise provides certain products in the U.S. Applicant denies the products are "related." Applicant lacks knowledge or information sufficient to form a belief as to the truth of the rest of the matters alleged in Paragraph 3 and, on that basis, denies them.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 4 and, on that basis, denies them.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 5 and, on that basis, denies them.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 6 and, on that basis, denies them.

7. Applicant Rockin' Horse Farm, LLC DBA Happy Critter admits the allegation in Paragraph 7 that it provides insect repellents in the U.S. under the mark Wilbur & Co.

8. Applicant Rockin' Horse Farm, LLC DBA Happy Critter admits the allegation in Paragraph 8 that it first used its Wilbur & Co mark in the U.S. for insect repellents at least as early as January 22, 2020.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 9 and, on that basis, denies them.

10. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 10 and, on that basis, denies them.

11. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 11 and, on that basis, denies them.

12. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 12 and, on that basis, denies them.

13. Applicant denies any and all allegations and/or legal conclusions contained in Paragraph 13.

14. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 14 and, on that basis, denies them.

#### **AFFIRMATIVE DEFENSES**

15. Opposer has not alleged grounds sufficient to sustain its burden of proof and the Notice of Opposition therefore fails to state a claim upon which relief can be granted.

16. One or more of the Opposer's claims are barred by the equitable defenses of unclean hands, laches, acquiescence, waiver, or estoppel.

17. Opposer's Notice of Opposition was brought for an improper purpose.

18. Applicant hereby gives notice that it may rely on any other defenses that may become available or appear during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

#### **RELIEF REQUESTED**

WHEREFORE, having fully answered Opposer's Notice of Opposition, Applicant requests that the Trademark Trial and Appeal Board dismiss the notice of Opposition and that

Applicant's Application Serial No. 88/71,897 be allowed for registration on the principal register and grant all other appropriate relief to Applicant as it deems just.

Dated: September 27, 2020

Respectfully Submitted,

/s/ Lisa M. Baird  
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*Attorney for Applicant, Rockin' Horse Farm, LLC*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition has been served on Opposer by electronic mail on the 27th day of September, 2020 to the following:

Randy Troxel  
Trademark-Associates  
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Walnut Creek, CA 94596  
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Dated: September 27, 2020

Respectfully Submitted,

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