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

Proceeding	91264667
Party	Defendant Hello Health Nutrition LLC
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Date	12/16/2020
Attachments	20201216 Barnhill Opposition D Answer.pdf(113677 bytes)

IN THE UNITED STATE PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Serial No. 88842523 For the mark: MIGHTY MIGHT	Opposition No. 91264667
Traditional Medicinals, Inc., Opposer, v. Hello Health Nutrition LLC, Applicant.	

ANSWER

The Applicant, Hello Health Nutrition, submits this answer to Opposer's Notice of Opposition. Applicant, admits, denies, and alleges as follows.

1. Applicant admits the allegations of paragraph 1 of the Notice of Opposition (all paragraph numbers refer to paragraphs of the Notice of Opposition unless otherwise indicated).

2. Applicant is without sufficient information to form a belief as to the truth of the allegations of paragraph 2 and therefore denies them.

3. Applicant admits the allegations of paragraph 3.

4. Applicant admits the allegations of paragraph 4.

Priority

5. Applicant admits the allegations of paragraph 5.

6. With regard to the allegations of paragraph 6, Applicant admits it filed its application on March 20, 2020 and therefore it can assert constructive use as of that date.

Applicant is without sufficient information to form a belief as to the truth of the remaining allegations of paragraph 6 and therefore denies them.

7. Applicant admits Opposer owns the trademark registrations set forth in paragraph 7.

8. Applicant is without sufficient information to form a belief as to the truth of the allegations of paragraph 8 and therefore denies them.

9. Applicant denies the allegations of paragraph 9, but admits that some of the Opposer's marks may be incontestable.

10. Applicant is without sufficient information to form a belief as to the truth of the allegations of paragraph 10 and therefore denies them.

11. Applicant is without sufficient information to form a belief as to the truth of the allegations of paragraph 11 and therefore denies them.

12. Applicant is without sufficient information to form a belief as to the truth of the allegations of paragraph 12 and therefore denies them.

13. Applicant denies the allegations of paragraph 13.

Likelihood of Confusion

14. Applicant denies the allegations of paragraph 14, except Applicant admits that the terms MIGHTY MIGHT and NIGHTY NIGHT differ in appearance only in the fact that the first letter of each word is different.

15. Applicant denies the allegations of paragraph 15.

16. Applicant denies the allegations of paragraph 16.

Dilution by Blurring

17. Applicant denies the allegations of paragraph 17.

18. Applicant denies the allegations of paragraph 18; except Applicant admits that the terms MIGHTY MIGHT and NIGHTY NIGHT differ in appearance only in the fact that the first letter of each word is different.

19. Applicant denies the allegations of paragraph 19.

20. Applicant is without sufficient information to form a belief as to the truth of the allegations of paragraph 20 and therefore denies them.

21. Applicant is without sufficient information to form a belief as to the truth of the allegations of paragraph 21 and therefore denies them.

False Suggestion of a Connection

22. Applicant denies the allegations of paragraph 22.

23. Applicant denies the allegations of paragraph 23; except Applicant admits that the terms MIGHTY MIGHT and NIGHTY NIGHT differ in appearance only in the fact that the first letter of each word is different.

24. Applicant denies the allegations of paragraph 24.

25. Applicant admits the allegations of paragraph 25.

26. Applicant denies the allegations of paragraph 26.

27. Applicant denies the allegations of paragraph 27.

28. Applicant denies the allegations of paragraph 28.

Additional Defenses

29. Applicant alleges that the Applicant's mark and the Opposer's marks are distinct in terms of appearance.

30. Applicant alleges the Applicant's mark and the Opposer's marks are distinct in terms of sound.

31. Applicant alleges the Applicant's mark MIGHT MIGHT and the Opposer's marks NIGHTY NIGHT have a different meaning and create a substantially different commercial impression.

32. Applicant alleges the Applicant's goods and the Opposer's goods are sold in different channels of trade.

33. Applicant alleges the Applicant's products and the Opposer's products are sold to discriminating customers seeking specific products for specific and very different purposes.

34. Applicant alleges that there is little likelihood of confusion between Applicant's products bearing the Applicant's mark and Opposer's products bearing the Opposer's marks.

35. Applicant alleges that its mark does not dilute the Opposer's marks.

Wherefore, the Applicant requests that the Notice of Opposition be dismissed, or in the alternative, that the Opposer's opposition be denied; and that the Applicant's mark be allowed and registered.

Dated: December 16, 2020.

/Ira M. Schwartz/

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Certificate of Service

I hereby certify that a true and complete copy of the foregoing ANSWER has been served on the party indicated below by forwarding said copy by email on the following date to:

Jeremy Johnson
Traditional Medicinals, Inc.
1400 Valley House Drive, Suite 120
Rohnert Park CA 94928
jjohnson@tradmed.com
Opposer

Date: December 16, 2020.

/Ira M. Schwartz/
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