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Filing date: **01/11/2021**

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

Proceeding	91266251
Party	Defendant White, Lonnie A
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Date	01/11/2021
Attachments	L.White.Trademark.Opp.Answer.1.8.21-signed.pdf(250324 bytes ) Proof Of Service 1.pdf(63395 bytes ) Proof of Service 2.pdf(81284 bytes )

UNITED STATES PATENT AND TRADEMARK OFFICE  
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January 8, 2021

Opposition No. 91266251  
Serial No. 88741398

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

In Re Serial No. 88/741,398	§	
Filed: December 29, 2019	§	
Mark: EXCUSES & Design	§	
Published: November 3, 2020	§	
	§	
Michael Thomas	§	Opposition No. 91266251
Opposer,	§	
v.	§	
Lonnie A. White,	§	
Respondent	§	

**ANSWER**

Lonnie White (“Respondent”), an individual resident of the State of Florida, denies the allegations asserted by Michael Thomas (“Opposer”), and his belief that he will be damaged by registration of the mark identified above and hereby denies the allegations alleged in the Notice of Opposition of application Serial No. 88/741,398 (the “White Application”) under the provisions of 15 U.S.C. §1063.

As grounds for denial of the allegations alleged in the Opposer's opposition, Respondent states the following:

### **Statement of Facts**

1. Respondent denies that Opposer has been using the design mark EXCUSES & Design shown below ("Opposer's Mark") on and in association with certain articles of clothing ("Opposer's Goods") since at least as early as April 2019 and has been using it in interstate commerce since at least as early as September 2019:



2. Respondent affirms that Opposer is a professional NFL player but Respondent denies that Opposer first offered Opposer's Goods to his teammates and colleagues in April 2019.
3. Respondent denies that Social media postings about Opposer's Goods were also made at or around this time.
4. Respondent denies that Opposer began offering Opposer's Goods for sale to the public at large in September 2019.
5. Respondent affirms Opposer's Goods are currently offered for sale through the Aldine Sports Association website located at [asayouth.org](http://asayouth.org).
6. Respondent denies that Opposer's use of and promotion of Opposer's Mark has resulted in the mark becoming known and recognized by consumers and potential consumers.
7. Respondent denies that consumers and potential customers have come to know, rely on, and recognize Opposer's Mark as associated with Opposer and Opposer's Goods.

8. Respondent denies that as a result of Opposer's use of and promotion of Opposer's Mark, that Opposer has established significant goodwill in Opposer's Mark.
9. Respondent denies that as a result of Opposer's marketing, sales, and recognition by the media, that Opposer's Mark has become identified with Opposer and Opposer's Goods by consumers and potential consumers nationwide.
10. Respondent affirms that Lonnie A. White ("White") is an individual resident of the State of Florida.
11. Respondent denies that discovery will show that White encountered Opposer's Mark as a result of the limited uses in spring of 2019 that resulted in broader social media exposure of Opposer's Goods at or around the same time, as referenced in Paragraphs above.
12. Respondent affirms that White filed the White Application pursuant to 15 U.S.C. §1051(a) on December 29, 2019, for a mark (the "White Mark") claiming "Shirts; Shirts and short-sleeved shirts; Sweaters; Athletic shirts; Athletic sweaters; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Baseball caps and hats; Crew neck sweaters; Graphic T-shirts; Short-sleeve shirts; Shortsleeved or long-sleeved t-shirts; Sport shirts; Sports shirts; Sports shirts with short sleeves; Sports caps and hats; Sweat shirts; Tshirts; Tee shirts; Tee-shirts; Wearable garments and clothing, namely, shirts; Women's clothing, namely, shirts, dresses, skirts, blouses," in Class 25 (collectively, the "White Goods").
13. Respondent affirms the White Application asserts a first-use date of January 22, 2019, and a first-use-in commerce date of February 22, 2019.
14. Respondent denies that the White Mark did not enter into commerce until June of 2019.

15. Respondent affirms the following sworn declarations in the White

Application:

- White believed that he was the owner of the White Mark.
- The White Mark was in use in commerce on or in connection with the claimed goods.
- To the best of White's knowledge, no other person had the right to use the White Mark in commerce.
- To the best of White's knowledge, all of the above declarations had evidentiary support.

16. Respondent denies that discovery will show the above declarations to have been falsely made and made with the knowledge of their falsity.

17. Respondent denies that he has ceased use of the White Mark in interstate commerce for reasons other than "special circumstance beyond the owner's control that excuse nonuse," as required in Section 1604.11 of the Trademark Manual of Examining Procedure to support excusable non-use.

### **Count I: Abandonment**

18. Respondent denies that the White Mark has ceased use in interstate commerce and that there is no intent to resume use in commerce. Respondent denies that the White Mark should be deemed to have been abandoned.

**Count II: Fraud on the U.S. Patent and Trademark Office**

19. Respondent denies that White knowingly made false, material representations in the sworn declarations contained in the White Application and that White committed fraud on the U.S. Patent and Trademark Office.

WHEREFORE, Respondent prays that Application Serial No. 88/741,398 be approved and registration for the White Mark be granted.

Dated: January 8, 2020

Respectfully submitted,



Jonathan Mputu, Esq.

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Orlando, FL 32817

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Attorney for Respondent Lonnie White

# PROOF OF SERVICE: Answer to Notice of Opposition- Respondent



10:20 PM (0 minutes ago)



**Jonathan Mputu** <[jonathan.mputu.legal@gmail.com](mailto:jonathan.mputu.legal@gmail.com)>  
to gretchen, lonniewhiterealtor, trademark ▾

Hi Gretchen,

On behalf of my client and the Respondent, Lonnie White, please find attached service of our Answer to the Notice of Opposition filed on behalf of your client and Opposer, Michael Thomas. Thank you.

Please confirm receipt of this email. Thank you.

Best regards,

**Jonathan Mputu, Esq.**

[jonathan.mputu.legal@gmail.com](mailto:jonathan.mputu.legal@gmail.com)

407-952-0824



# PROOF OF SERVICE: Answer to Notice of Opposition- Respondent




**Jonathan Mputu** <[jonathan.mputu.legal@gmail.com](mailto:jonathan.mputu.legal@gmail.com)>  
to gretchen, lonniewhiterealtor, trademark ▾

10:20 PM (0 minutes ago) ☆ ↶

Hi Gretchen

On behalf of my client, please accept my sincere apologies for the delayed service of our Answer to the Notice of Opposition filed on behalf of your client.





Please contact me at the following information:



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