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

Proceeding	91266788
Party	Defendant Elite IP Holdings, LLC
Correspondence Address	FRANK MASSABKI 1600 N. PARK DRIVE WESTON, FL 33326 UNITED STATES Primary Email: trademarks@vpxsports.com Secondary Email(s): gideon.eckhouse@vpxsports.com No phone number provided.
Submission	Answer
Filer's Name	Gideon Eckhouse
Filer's email	trademarks@bangenergy.com
Signature	/Gideon Eckhouse/
Date	02/05/2021
Attachments	Answer for Q QUASH Opposition 91266788.pdf(91046 bytes)

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

Q Tonic, LLC,) Opposition No. 91266788
Opposer,)
) Serial No.: 88/956,191
) Mark: Q QUASH
v.)
)
Elite IP Holdings, LLC,)
Applicant.)
_____)

ANSWER TO NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir,

Applicant, Elite IP Holdings, LLC, by and through its undersigned counsel, hereby submits an Answer to Opposer's Notice of Opposition dated December 29, 2020. Applicant has reviewed the paragraphs of the Notice of Opposition and responds as follows.

1. Applicant admits the allegations of Paragraph 1.
2. Applicant admits that Opposer is listed as the owner of U.S. Trademark Registrations and Applications listed in Paragraph 2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 2, and therefore denies those allegations.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3, and therefore denies those allegations.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4, and therefore denies those allegations.
5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5, and therefore denies those allegations.
6. Applicant denies the allegations of Paragraph 6.
7. Applicant denies the allegations of Paragraph 7.
8. Applicant denies the allegations of Paragraph 8.

AFFIRMATIVE DEFENSES

In addition to the allegations in the numbered paragraphs above, Applicant provides the following affirmative defenses:

No Likelihood of Confusion

9. In order to establish a likelihood of confusion, Opposer must show similarities between the marks, as well as between the goods listed in one or more of the marks, cited in their Notice of Opposition and the mark, and the goods, that is the subject of this opposition. In this case, Opposer's marks are significantly visually dissimilar from Applicant's mark. In particular, Opposer's marks include a stylized Q in a thin script. The circular portion of the Q does not meet to form a complete circle and therefore has non-overlapping lines. The leg, or non-circular portion, of the Q is nearly parallel to a plane running below the mark.
10. In significant contrast, Applicant's Q mark is a very thick script. The circular portion of Applicant's Q mark is a complete circle and does not have the non-overlapping lines of the circle of Opposer's Q mark. The circular portion of Applicant's Q mark includes beveling or curvature at the top right and bottom left – which are absent from Opposer's Q mark. Further, the leg, or non-circular portion, of Applicant's Q is at an approximately 45-degree angle as

compared to a plan running below the mark. Applicant's mark also includes the term QUASH, which is entirely absent in Opposer's marks. Opposer's marks do not contain any element that has even a remotely similar connotation to the term QUASH. For at least these reasons, a comparison of the marks themselves shows no likelihood of confusion.

Equitable Defenses

11. Applicant claims the equitable defenses of unclean hands, laches, estoppel, acquiescence, and fraud, each of which are sufficient to overcome the instant opposition.

Dated this 5th day of February 2021

By: _____



Gideon B. Eckhouse
Chief IP Counsel
Vital Pharmaceuticals, Inc.
1600 N. Park Drive
Weston, FL 33326

Certificate of Service

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition has been served on Michelle Alvey by forwarding said copy February 5, 2021, via electronic mail to:

MICHELLE ALVEY
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UNITED STATES
pto-sl@huschblackwell.com

Dated this 5th day of February 2021

By:



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