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

Proceeding	91267153
Party	Defendant Litewater, Inc.
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Submission	Answer
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Date	02/23/2021
Attachments	7135.004-00 20210223 ANSWER.pdf(120058 bytes)

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

SOUTH BEACH BEVERAGE COMPANY, INC.)	Opposition No. 91267153
Opposer,)	Serial No.: 90002762
)	Mark: LITEWATER SCIENTIFIC
v.)	Serial No.: 88920986
)	Mark: LITEWATER
LITEWATER, INC.)	Serial No.: 88920947
Applicant.)	Mark: LITEWATER

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant LITEWATER, INC., a Delaware corporation (hereinafter, “Applicant”), by and through its undersigned counsel, answers the separately numbered allegations of the Notice of Opposition filed by Opposer SOUTH BEACH BEVERAGE COMPANY, INC. (hereinafter, “Opposition” and “Opposer”, respectively) as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 1 of the Opposition and therefore denies the same..

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 2 of the Opposition and therefore denies the same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 3 of the Opposition and therefore denies the same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 4 of the Opposition and therefore denies the same.

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5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 5 of the Opposition and therefore denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 6 of the Opposition and therefore denies the same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 7 of the Opposition and therefore denies the same.

8. Applicant admits the allegations of Paragraph 8 of the Opposition except the claim that Opposer has prior common law rights. Applicant is without knowledge or information sufficient to form a belief as to the truth of the specific allegation that Opposer has prior common law rights and therefore denies the same.

9. Applicant admits the allegations of Paragraph 9 of the Opposition except the claim that the registrations are valid. Applicant is without knowledge or information sufficient to form a belief as to the truth of the specific allegation that the registrations are valid and therefore denies the same.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 10 of the Opposition and therefore denies the same.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 11 of the Opposition and therefore denies the same.

12. Applicant admits the allegations of Paragraph 12 of the Opposition.

13. Applicant admits the allegations of Paragraph 13 of the Opposition except the claim that Applicant was or should have been fully aware of Opposer's LIFEWATER Marks and its rights therein.

14. Applicant admits the allegations of Paragraph 14 of the Opposition that SoBe has standing and priority. Applicant denies the remaining allegations of Paragraph 14 of the Opposition.

15. Applicant realleges and incorporates by reference each of its answers to the previous paragraphs of the Notice of Opposition as though set forth in full at this point.

16. Applicant denies the allegations of Paragraph 16 of the Opposition.

17. Applicant denies the allegations of Paragraph 17 of the Opposition.

18. Applicant denies the allegations of Paragraph 18 of the Opposition.

19. Applicant denies the allegations of Paragraph 19 of the Opposition.

20. Applicant denies the allegations of Paragraph 20 of the Opposition.

21. Applicant realleges and incorporates by reference each of its answers to the previous paragraphs of the Notice of Opposition as though set forth in full at this point.

22. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 22 of the Opposition and therefore denies the same.

23. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 23 of the Opposition and therefore denies the same.

24. Applicant denies the allegations of Paragraph 24 of the Opposition.

25. Applicant realleges and incorporates by reference each of its answers to the previous paragraphs of the Notice of Opposition as though set forth in full at this point.

26. Applicant denies the allegations of Paragraph 26 of the Opposition.

27. Applicant denies the allegations of Paragraph 27 of the Opposition.

28. Applicant denies the allegations of Paragraph 28 of the Opposition.

29. Applicant denies the allegations of Paragraph 29 of the Opposition.

30. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 30 of the Opposition specifically the meaning of the term “light water” and therefore denies the same.

31. Applicant denies the allegations of Paragraph 31 of the Opposition.

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32. Applicant denies the allegations of Paragraph 32 of the Opposition.
33. Applicant denies the allegations of Paragraph 33 of the Opposition.
34. Applicant denies the allegations of Paragraph 34 of the Opposition.
35. Applicant admits the allegations of Paragraph 35 of the Opposition that Opposer and other businesses should be free to use descriptive language when describing their own goods and/or services to the public in advertising and marketing materials. Applicant denies the remaining allegations of Paragraph 35 of the Opposition.
36. Applicant denies the allegations of Paragraph 36 of the Opposition.
37. Applicant denies the allegations of Paragraph 37 of the Opposition.
38. Applicant denies the allegations of Paragraph 38 of the Opposition.
39. Applicant denies the allegations of Paragraph 39 of the Opposition.
40. Applicant realleges and incorporates by reference each of its answers to the previous paragraphs of the Notice of Opposition as though set forth in full at this point.
41. Applicant denies the allegations of Paragraph 41 of the Opposition.
42. Applicant denies the allegations of Paragraph 42 of the Opposition.
43. Applicant denies the allegations of Paragraph 43 of the Opposition.
44. Applicant denies the allegations of Paragraph 44 of the Opposition.
45. Applicant denies the allegations of Paragraph 45 of the Opposition.
46. Applicant denies the allegations of Paragraph 46 of the Opposition.

DEFENSES

1. Opposer's allegations fail to state a claim upon which relief may be granted.
2. There is no likelihood of confusion between Opposer's Marks and Applicant's Marks.

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WHEREFORE, Applicant respectfully requests that the opposition be dismissed with prejudice and that Applicant's subject application proceed to registration.

Date: February 23, 2021 TDFoster - Intellectual Property Law

/Thomas D. Foster/
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ELECTRONIC MAILING CERTIFICATE

I hereby certify that the APPLICANT'S ANSWER TO NOTICE OF OPPOSITION is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board (ESTTA) on February 23, 2021.

Signature /Thomas D. Foster/

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION has been served on Paul J. Reilly, Esq. by forwarding said copy on February 23, 2021, via email to: paul.reilly@bakerbotts.com.

Signature /Thomas D. Foster/

Date: February 23, 2021