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

Proceeding	91267807
Party	Defendant Arena Management Co., LLC
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Attachments	Answer to Notice of Opposition - Quaestor.pdf(133277 bytes )

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

QUAESTOR GLOBAL HOLDINGS INC.,	)	
	)	
Opposer,	)	) Opposition No. 91/267,807
	)	
v.	)	) Mark: QUAESTOR ADVISORS
	)	
ARENA MANAGEMENT CO., LLC,	)	) Serial No. 88/461,170
	)	
Applicant.	)	
	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Arena Management Co., LLC (“Applicant”), by and through its undersigned counsel, Ladas & Parry LLP, hereby answers the Notice of Opposition filed by Quaestor Global Holdings Inc. (“Opposer”) against Applicant’s Application Serial No. 88/461,170 for the mark QUAESTOR ADVISORS (“Applicant’s Mark”), as follows:

Applicant denies Opposer’s claim in the unnumbered first paragraph of the Notice of Opposition alleging that Opposer will be damaged by Applicant’s Mark and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in said paragraph and therefore denies same.

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition and therefore denies same.

2. Applicant admits the allegations set forth in paragraph 2 of the Notice of Opposition.

3. Applicant admits the allegations set forth in paragraph 3 of the Notice of Opposition.

4. Applicant admits the allegations set forth in paragraph 4 of the Notice of Opposition.

5. Applicant denies knowledge or information sufficient to form a belief as to the truth of allegations set forth in Paragraph 5 of the Notice of Opposition and respectfully refers the Trademark Trial and Appeal Board to its electronic records concerning same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Notice of Opposition and therefore denies same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Notice of Opposition and therefore denies same.

8. Applicant admits the allegations set forth in paragraph 8.

9. Applicant admits the allegations set forth in paragraph 9.

10. To the extent understood, Applicant has not yet filed a statement of use and denies knowledge or information sufficient to form a belief as to the remaining statements or conclusions of law set forth in paragraph 10 of the Notice of Opposition.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of the Notice of Opposition and therefore denies same.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12 of the Notice of Opposition and therefore denies same.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and legal conclusions set forth in paragraph 13 of the Notice of Opposition and therefore denies same.

14. Applicant denies the allegations set forth in paragraph 14 of the Notice of Opposition.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

(Lack of Likelihood of Confusion)

Opposer's applied for and pleaded intent to use ("ITU") applications for QUAESTOR TRADE and Design, QUAESTOR and Design and QUAESTOR INVEST and Design are unlikely to be confused with Opposer's QUAESTOR ADVISORS mark since Applicant's earlier applied for mark has a different commercial impression and does not cover downloadable software and other dissimilar goods and services covered by Opposer's pleaded ITU applications.

#### **SECOND AFFIRMATIVE DEFENSE**

(Priority)

Applicant's applied for QUAESTOR ADVISORS Application No. 88/461,170 was filed on June 5, 2019. Opposer's pleaded ITU applications were not filed until more than a year later on July 27, 2020. Accordingly, Applicant's QUAESTOR ADVISORS Application No.

88/461,170 has an earlier constructive use filing date than Opposer's latter filed ITU applications. Opposer has failed to allege with any particularity any prior bona fide use in commerce and any such alleged common law rights preceding Opposer's own filing dates of its ITU applications would need to be proven by Opposer by clear and convincing evidence.

**THIRD AFFIRMATIVE DEFENSE**

**(Lack of Good Faith)**

A cursory due diligence search of the USPTO records would have revealed Applicant's U.S. Application Serial No. 88/461170. As such, Opposer knew or should have known about Applicant's application prior to the filing of Opposer's federal applications, namely, Application Serial No. 90/075997 for the mark QUAESTOR & Design, Application Serial No. 90/075741 for the mark QUAESTOR INVEST & Design, and Application Serial No. 90/076023 for the mark QUAESTOR TRADE & Design., all of which were filed more than a year after Applicant's constructive use filing date, namely on July 27, 2020.

WHEREFORE, for all of the foregoing reasons, Applicant Arena Management Co., LLC respectfully requests that the Board dismiss the Notice of Opposition filed by the Opposer Quaestor Global Holdings Inc. against its QUAESTOR ADVISORS Application Serial No. 88/461,170 in its entirety and allow said application to issue to registration.

Respectfully submitted,

**LADAS & PARRY LLP**  
*Attorneys for Applicant*  
*ARENA MANAGEMENT CO., LLC*

Dated: April 5, 2021

By:           /Dennis Prah/            
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