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

Proceeding	91267822
Party	Defendant THE ETHNIC GROUP LLC
Correspondence Address	THE ETHNIC GROUP LLC UNIT A 301 DAHLIA PLACE CARY, NC 27511 UNITED STATES Primary Email: 2theethnicgroup@gmail.com Secondary Email(s): alfredlloyd@edenicblends.com 860-796-1682
Submission	Answer
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Date	03/29/2021
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Ser. No. 88890914

Applicant: The Ethnic Group LLC



Mark: **Edenic Blends**

Eden Foods, Inc.)	
)	
Opposer,)	
)	
vs.)	Opposition No. 91267822
)	
The Ethnic Group LLC)	
)	
Applicant.)	
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UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT’S ANSWER

In response to Opposer Eden Foods, Inc.’s (“Opposer”) Notice of Opposition, Applicant The Ethnic Group LLC (“Applicant”) responds as follows:

Applicant denies each and every allegation of the Notice of Opposition unless it is expressly admitted herein:

- 1) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 1, and therefore, denies the same.
- 2) Applicant is without sufficient knowledge or information to form a belief as to the

allegations of paragraph 2, and therefore, denies the same.

3) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 3, and therefore, denies the same.

4) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 4, and therefore, denies the same.

5) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 5, and therefore, denies the same.

6) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 6, and therefore, denies the same.

7) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 7, and therefore, denies the same.

8) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 8, and therefore, denies the same.

9) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 9, and therefore, denies the same.

10) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 10, and therefore, denies the same.

11) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 11, and therefore, denies the same.

12) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 12, and therefore, denies the same.

13) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 13, and therefore, denies the same.

- 14) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 14, and therefore, denies the same.
- 15) Paragraph 15 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations. Moreover, Section 33(b) of the Federal Trademark Act provides exclusive rights to use the registered trademark on or in connection with the goods or services registered.
- 16) Paragraph 16 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.
- 17) Paragraph 17 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.
- 18) Admitted to the extent that the word portion of Applicant's Mark is "EDENIC BLENDS", but denied to the extent paragraph 18 implies Applicant's Mark consists only of the phrase "EDENIC BLENDS".
- 19) Paragraph 19 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.
- 20) Paragraph 20 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.
- 21) Paragraph 21 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.
- 22) Paragraph 22 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.
- 23) Paragraph 23 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.

24) Applicant is without sufficient knowledge or information to form a belief as to the allegations of paragraph 24, and therefore, denies the same.

AFFIRMATIVE DEFENSES

1) First Affirmative Defense: The Notice of Opposition fails to state a claim upon which relief can be granted.

2) Second Affirmative Defense: There is no likelihood of confusion, mistake, or deception between Opposer’s Marks and Applicant’s Mark.

a. Specifically, Applicant’s Mark and Opposer’s Marks differ in appearance, sound, connotation, and commercial impression.

i. Regarding appearance, Applicant’s Mark consists of the design mark



Edenic Blends. Opposer’s Registrations generally consist of word marks containing the word “Eden”, but Opposer uses its EDEN



trademarks in association with a unique design: . It is

clear that Applicant’s Mark and Opposer’s Marks there vary significantly in appearance in practice.

ii. Regarding sound, Opposer’s Marks generally consist of the short word “Eden”, comprised of two (2) syllables. Applicant’s Mark consists of two (2) words and four (4) total syllables, with the first word being the longer

word “Edenic”.

iii. Regarding connotation and commercial impression, Opposer’s Marks again generally consist of the word “Eden”, sometimes paired with a word like “news”, “recipes”, or “store”. Opposer’s Marks reference the Garden of Eden, or a paradise from the Bible. The connotation is that Opposer’s Goods originate from that specific paradise. In contrast, Applicant’s Mark uses the word “Edenic”, meaning “unspoiled” or “idyllic”. When paired with Applicant’s Goods (supplements consisting of vitamins and minerals), the connotation is not that the goods come from the Garden of Eden – rather that the goods are unspoiled and pure.

- b. Moreover, the goods offered under Applicant’s Mark vary from the goods sold under Opposer’s Marks. Applicant’s Mark covers vitamin and mineral supplements. Opposer’s Marks cover various food goods, and also dietary and nutritional food supplements.
- c. Purchasers of Opposer’s Goods and Applicant’s Goods tend to exercise a high degree of care when purchasing each party’s goods. Supplements tend to be deeply personal and important to consumers because those goods involve consumers’ health. Therefore, consumers are likely to exercise caution when purchasing both Applicant’s Goods and Opposer’s Goods. Because consumers are likely to exercise a high degree of caution, it is less likely that consumers would be confused between Opposer’s use of Opposer’s Marks and Applicant’s use of Applicant’s Mark.

3) Third Affirmative Defense: Applicant alleges on information and belief that as a result of

Opposer's own acts and/or omissions, the Opposition is barred by the doctrine of laches.

4) Fourth Affirmative Defense: Applicant alleges on information and belief that the Opposition is barred by the doctrine of estoppel.

5) Fifth Affirmative Defense: Applicant alleges on information and belief that as a result of its own acts and omissions, Opposer has waived any right to pursue this Opposition.

6) Sixth Affirmative Defense: Applicant alleges on information and belief that the Opposition is barred by the doctrine of acquiescence.

7) Seventh Affirmative Defense: Applicant alleges on information and belief that the Opposition is barred by the doctrine of unclean hands.

8) Eighth Affirmative Defense: Any and all acts alleged to have been committed by Applicant were performed with lack of knowledge and lack of willful intent.

March 29, 2021

Respectfully submitted,

/s/ Rexford Brabson, Esq.

Rexford Brabson
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing APPLICANT'S ANSWER is being electronically mailed to Opposer's attorney at the following address:

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/s/ Rexford Brabson
Rexford Brabson

March 29, 2021