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

Proceeding	91270335
Party	Defendant Clvrly Learning, Inc.
Correspondence Address	CLVRLY LEARNING INC 591 TEMPLETON DRIVE SUNNYVALE, CA 94087 UNITED STATES Primary Email: sean@grove.us No phone number provided.
Submission	Answer
Filer's Name	Rexford Brabson
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Date	08/09/2021
Attachments	2021.08.09-Answer.pdf(144278 bytes)

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

In the matter of Trademark Application Ser. No. 90130514

Applicant: Clvrly Learning, Inc.

Mark: GROVE XR

DivX, LLC)	
)	
Opposer,)	
)	
vs.)	Opposition No. 91270335
)	
Clvrly Learning, Inc.)	
)	
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 DivX, LLC’s (“Opposer”) Notice of Opposition, Applicant Clvrly Learning, Inc. (“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) Admitted.

8) Admitted.

9) Paragraph 9 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.

10) Paragraph 10 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.

11) No response is required to Opposer's paragraph 11.

12) Denied.

13) Denied.

14) Paragraph 14 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.

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.

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.

AFFIRMATIVE DEFENSES

1) First Affirmative Defense: There is no likelihood of confusion, mistake, or deception between Opposer's Mark and Applicant's Mark.

- a. Specifically, Applicant has used the GROVE trademark since at least as early as October 18, 2019, which is Opposer's filing date of its U.S. trademark application GROVE and the earliest date of use upon which Opposer can rely. Applicant has used at least the trademark GROVE LEARNING since at least as early as October 18, 2019, which is a substantially exact trademark to and a legal equivalent of the GROVE XR trademark currently used by Applicant. Therefore, Applicant has priority of use and Opposer's claims fail *ab initio*.
- b. Moreover, Applicant's Mark and Opposer's Mark differ in appearance, sound, connotation, and commercial impression.
- c. The services offered in association with Applicant's Mark also vary wildly from the goods sold in association with Opposer's Mark. Applicant's Mark covers SAAS services involving device management in the field of virtual reality. In contrast, Opposer's Mark is used in association with software for videos and video sharing, and closely-related functions.
- d. Purchasers of Opposer's Goods and Applicant's Services tend to exercise a high degree of care when purchasing these goods and services. Specifically, consumers of downloadable software and SAAS services tend to be very well-versed and knowledgeable about what software applications they are downloading. It is very unlikely that a consumer would see software meant to be used in association with

virtual reality and would be confused by software meant to be used in association with video downloads and video sharing, and vice versa. Moreover, software licenses can be quite expensive, and consumers are much more likely to exercise a high degree of care when purchasing these types of goods or services.

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

August 09, 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 the following address:

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/s/ Rexford Brabson
Rexford Brabson

August 09, 2021