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

Proceeding	91270550
Party	Plaintiff Hiller, LLC
Correspondence Address	TIMOTHY L. CAPRIA BRADLEY ARANT BOULT CUMMINGS LLP 1600 DIVISION STREET, SUITE 700 NASHVILLE, TN 37203 UNITED STATES Primary Email: nashvilleipdocketing@bradley.com Secondary Email(s): pwalker@bradley.com, tcapria@bradley.com, rswor@bradley.com 615-252-3811
Submission	Answer to Counterclaim
Filer's Name	Kimberly Ingram
Filer's email	kingram@bradley.com, rswor@bradley.com, nashvilleipdocketing@bradley.com, pwalker@bradley.com, tcapria@bradley.com
Signature	/Kimberly Ingram/
Date	09/20/2021
Attachments	HillerAnswer.pdf(95735 bytes )

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

In the Matter of Application Serial No. 88/946,386



For the Trademark: (“HAPPY MONEY PROMISE IF YOU’RE NOT HAPPY, YOU DON’T PAY and Design”)

Published in the *Trademark Official Gazette* on May 18, 2021

HILLER, LLC,	)	
	)	
Opposer,	)	
	)	
v.	)	OPPOSITION NO. 91270550
	)	
SERVICE CHAMPIONS, LLC,	)	
	)	
Applicant.	)	
	)	

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**ANSWER TO COUNTERCLAIM**

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Opposer Hiller, LLC (“Hiller”) answers the Counterclaim filed by Applicant Service Champions, LLC (“Applicant”) as follows:

\*\* As to the unnumbered introductory paragraph, Hiller admits that Applicant is a limited liability company organized under the laws of California and is registered at the 3150 E. Birch Street address. Hiller denies all other allegations of this unnumbered paragraph.

1. Hiller lacks information or belief sufficient to admit or deny the allegations of paragraph 1 and, therefore, denies the same.
2. Admitted.
3. Admitted.
4. Denied.

5. Denied.

6. Admitted.

7. Hiller denies the allegations of the first sentence of paragraph 7. As to the second sentence of paragraph 7, the Examiner's comments in Exhibit A speak for themselves. To the extent a further response is required, Hiller admits that the quoted, excerpted language in the second sentence of paragraph 7 appears in Exhibit A, but denies that Applicant has accurately represented the context of that excerpted quotation.

8. As to the allegations of paragraph 8, the Examiner's comments in Exhibit A speak for themselves. To the extent a further response is required, Hiller admits that the quoted language in paragraph 8 appears in Exhibit A, but denies that Applicant has accurately represented the context of that excerpted quotation.

9. Denied.

10. Hiller lacks information or belief sufficient to admit or deny the allegations of paragraph 10 and, therefore, denies the same.

11. Hiller lacks information or belief sufficient to admit or deny the allegations of paragraph 11 and, therefore, denies the same.

12. Hiller lacks information or belief sufficient to admit or deny the allegations of paragraph 12 and, therefore, denies the same.

13. Hiller lacks information or belief sufficient to admit or deny the allegations of paragraph 13 and, therefore, denies the same.

14. Hiller lacks information or belief sufficient to admit or deny the allegations of paragraph 14 and, therefore, denies the same.

15. Hiller denies that other companies use "the smiley face mark" used by Hiller.

**COUNT I**

16. Hiller realleges and incorporates by reference its responses to the allegations of the preceding paragraphs.

17. As to the allegations contained in the first and second sentences of paragraph 17, Hiller admits that the '969 registration was made pursuant to Section 2(f) and that the mark registered acquired its distinctiveness through Hiller's use of it. Hiller denies all other allegations of the first and second sentences of paragraph 17. As to the allegations contained in the third and fourth sentences of paragraph 17, the sources cited speak for themselves. Hiller admits that the language quoted in those sentences appears in those sources, but denies that Applicant has accurately represented the context of those excerpted quotations.

18. Denied.

19. Denied.

**COUNT II**

20. Hiller realleges and incorporates by reference its responses to the allegations of the preceding paragraphs.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

**COUNT III**<sup>1</sup>

25. Hiller realleges and incorporates by reference its responses to the allegations of the

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<sup>1</sup> Hiller filed a motion to strike Count III prior to filing this answer, but responds to its substantive allegations herein to preserve its denials in the event such motion is denied.

preceding paragraphs.

26. Denied.

27. Denied.

28. As to the allegations of paragraph 28, the Examiner's comments in Exhibit A speak for themselves. To the extent a further response is required, Hiller admits that the quoted language in paragraph 28 appears in Exhibit A, but denies that Applicant has accurately represented the context of that excerpted quotation.

29. Denied.

30. Denied.

#### **PRAYER FOR RELIEF**

WHEREFORE, Hiller, having fully and completely responded to each and every allegation in the Counterclaim, respectfully requests that the Board dismiss the Counterclaim and award it any and all other relief to which it appears entitled.

Dated: September 20, 2021

Respectfully submitted,

BRADLEY ARANT BOULT CUMMINGS LLP  
By: /s/ Kimberly M. Ingram  
Phillip E. Walker (Tenn. Bar # 021739)  
Timothy L. Capria (Tenn. Bar # 033235)  
Kimberly M. Ingram (Tenn. Bar # 035191)  
Richard W. F. Swor (Tenn. Bar # 037640)  
1600 Division Street, Suite 700  
Nashville, Tennessee 37203  
Telephone: (615) 252-3811  
Facsimile: (615) 248-3011  
tcapria@bradley.com

*Attorneys for Hiller*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing ANSWER TO COUNTERCLAIM has been served on SERVICE CHAMPIONS, LLC and its correspondent of record by forwarding said copy on September 20, 2021, via email to:

JONATHAN A. HYMAN  
KNOBBE MARTENS OLSON AND BEAR, LLP  
2040 MAIN STREET, 14TH FLOOR  
IRVINE, CA 92614  
UNITED STATES  
efiling@knobbe.com, jonathan.hyman@knobbe.com

By: /s/ Kimberly M. Ingram  
Kimberly M. Ingram