

ESTTA Tracking number: **ESTTA1164864**

Filing date: **10/08/2021**

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

Proceeding	91271407
Party	Defendant Dias, Danica
Correspondence Address	DIAS, DANICA 3987 BERRYMAN AVE. LOS ANGELES, CA 90066 UNITED STATES Primary Email: danicadiaz1@gmail.com Secondary Email(s): tmapp@legalzoom.com No phone number provided.
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Date	10/08/2021
Attachments	Answer_10082021.pdf(180317 bytes)

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

UNCLE NEAREST, INC.

Opposer,

v.

DANICA DIAS,

Applicant

Opposition No.: 91271407

Mark: GROWN FOLKS

Serial No.: 90270712

**APPLICANT’S ANSWER TO NOTICE OF OPPOSITION, AFFIRMATIVE DEFENSES,
AND COUNTERCLAIM**

Applicant, Danica Dias (“Ms. Dias”), hereby responds and answers Uncle Nearest, Inc.’s (“Uncle Nearest”) Notice of Opposition against Ms. Dias’s application for registration of trademark for GROWN FOLKS, Serial No. 90270712, filed October 22, 2020, and published in the Official Gazette of May 4, 2021, as follows:

1. Ms. Dias admits that she filed a trademark application for registration for the mark GROWN FOLKS, in connection with “Alcoholic beverage produced from a brewed malt base with natural flavors,” but denies the remainder of the allegations in Paragraph 1.

2. Ms. Dias is without sufficient knowledge or information to admit or deny the allegations in Paragraph 2 and therefore denies the same.

3. Ms. Dias denies the allegations in Paragraph 3.

AFFIRMATIVE DEFENSES

By and for her affirmative defenses Ms. Dias states as follows:

1. Ms. Dias filed her application for trademark registration for the mark GROWN FOLKS on October 22, 2020, and said application was published for opposition in the Official Gazette on May 4, 2021.

2. The day Ms. Dias’s application was published for opposition, and more than six months after filing her application, Uncle Nearest filed its application for GROWN FOLK.

3. During this time, and as early as June 2020, Ms. Dias developed her business, brand, and consumer recognition and significant goodwill in GROWN FOLKS by, including, but not limited to:

- a. Incorporating her business Grown Folks Corporation;
- b. Obtaining an Employer Identification Number with the Internal Revenue Service;
- c. Obtaining an Alcohol Wholesalers Permit from the Alcohol and Tobacco Tax and Trade Bureau;
- d. Obtaining the following domain names: www.drinkgrownfolks.com, www.weregrown.com and, www.thegrownfolks.co;
- e. Establishing social media profiles with Instagram and Twitter under the names @drinkgrownfolks and @thegrownfolks.co, respectively;
- f. Developing her product under the mark GROWN FOLKS;
- g. Holding meetings with potential investors and,
- h. Engaging in negotiations with retailers for the distribution of her product.

First Affirmative Defense

(Priority)

Ms. Dias alleges on information and belief that the opposition is barred by her priority of use GROWN FOLKS, Serial No. 90270712.

Second Affirmative Defense

(Unclean Hands)

Ms. Dias alleges on information and belief that the opposition is barred by the doctrine of unclean hands.

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Third Affirmative Defense

(Laches)

Ms. Dias alleges on information and belief that as a result of Uncle Nearest's own acts and/or omissions, the opposition is barred by the doctrine of laches.

Fourth Affirmative Defense

(Estoppel)

Ms. Dias alleges on information and belief that the opposition is barred by the doctrine of estoppel.

Fifth Affirmative Defense

(Acquiescence)

Ms. Dias alleges on information and belief that the opposition is barred by the doctrine of acquiescence.

WHEREFORE, Ms. Dias requests that the notice of opposition be dismissed with prejudice, together with whatever other relief the Board may deem appropriate.

Respectfully submitted,

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Dated: October 8, 2021

By: /s/ Stephen M. Doniger
Stephen M. Doniger, Esq.
stephen@donigerlawfirm.com
Kelsey M. Schultz, Esq.
kschultz@doingerlawfirm.com
DONIGER / BURROUGHS
Attorneys for Applicant

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: DONIGER/BURROUGHS APC, 603 Rose Ave, Venice, CA 90291.

On October 8, 2021 I served the ENCLOSED documents described as:
APPLICANT'S ANSWER TO NOTICE OF OPPOSITION, AFFIRMATIVE DEFENSES, AND COUNTERCLAIM on the following necessary part(ies) in this action:

<p>Jane Shay Wald jwald@irell.com Conor Tucker ctucker@irell.com IRELL & MANELLA LLP 1800 Avenue of the Stars, Suite 900 Los Angeles, CA 90067 ATTORNEYS TO BE NOTICED</p>
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by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL

I deposited such envelope in the mail at Venice, California. The envelope was mailed with postage thereon fully prepaid.

BY ELECTRONIC MAIL (E-MAIL)

On this date I caused the above-referenced document(s) to be transmitted to the e-mail address noted above.

EXECUTED October 8, 2021 in Venice, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I further declare that I am employed in the office of a member of the California Bar, at whose direction this service was made.

/s/ Kelsey M. Schultz
Kelsey M. Schultz