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

Proceeding no.	91273522
Party	Defendant Pat McGrath Cosmetics LLC
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Date	01/26/2022
Attachments	Answer to NOO.pdf(11428 bytes)

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

CLEAN BEAUTY COLLABORATIVE, INC. and
AMYRIS CLEAN BEAUTY, INC.,

Opposers,

Opposition No. 91273522

v.

Serial Nos. 90235576

PAT MCGRATH COSMETICS LLC,

Mark: DIVINE ROSE

Applicant.

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Pat McGrath Cosmetics LLC (“Applicant”), by its undersigned counsel, hereby answers the corresponding numbered paragraphs of the Notice Of Opposition (1 TTABVUE) filed by Clean Beauty Collaborative, Inc. and Amyris Clean Beauty, Inc. (collectively, “Opposers”) as follows. Applicant denies each and every allegation by Opposers not expressly admitted herein.

1. Applicant is without information sufficient to admit or deny the allegations of Paragraph 1 and therefore denies the same.

2. Applicant is without information sufficient to admit or deny the allegations of Paragraph 2 and therefore denies the same.

3. Applicant is without information sufficient to admit or deny the allegations of Paragraph 3 and therefore denies the same.

4. Applicant admits that the Trademark Electronic Search System lists Clean Beauty Collaborative, Inc. as the current owner of Registration 6,441,459 for ROSE INC. in Class 41, which was issued on August 3, 2021. Denied as to the remainder.

5. Paragraph 5 asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 5.

6. Paragraph 6 asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 6.

7. Paragraph 7 asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 7.

8. Applicant admits that on October 5, 2020 Applicant filed Application No. 90/235,576 (the “’576 Application”) to federally register its mark DIVINE ROSE in Class 3 for “cosmetics; makeup” and in Class 18 for “bags; makeup bags; carrying bags; tote bags; all-purpose carrying bags.” Applicant admits that the ’576 Application was filed on a §1(a) in-use basis, with declared first use dates in each class of November 1, 2019. Applicant admits that on August 17, 2021, the ’576 Application was published for opposition in the Official Gazette. Applicant denies that the ’576 Application was filed on August 31, 2020.

9. Paragraph 9 (misabeled as Paragraph 10) asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 9.

10. Paragraph 10 (misabeled as Paragraph 11) asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 10.

11. Paragraph 11 (misabeled as a second Paragraph 10) asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 11.

12. Applicant admits that ROSE INC and DIVINE ROSE share the term ROSE. Applicant denies the remainder of the allegations in Paragraph 12 (misabeled as Paragraph 11).

13. Paragraph 13 (misabeled as Paragraph 12) asserts a legal conclusion to which no

answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 13.

14. Paragraph 14 (misabeled as Paragraph 13) asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 14.

15. Paragraph 15 (misabeled as Paragraph 14) asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 15.

16. Paragraph 16 (misabeled as Paragraph 15) asserts a legal conclusion to which no answer is required. To the extent an answer may be required, Applicant denies the allegations in Paragraph 16.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Opposers fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Applicant hereby gives notice that it may rely on affirmative defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

Dated: January 26, 2022

Respectfully submitted,

Ballard Spahr LLP

By: /s/ Lynn E. Rzonca

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Applicant's Answer to Notice of Opposition was served on the Attorney of Record for Opposers on the date below:

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Dated: January 26, 2022

/s/ Brian S.S. Auerbach
Brian S.S. Auerbach