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

Proceeding no.	91275159
Party	Defendant Alfwear Inc.
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Signature	/s S. Brandon Owen/
Date	04/28/2022
Attachments	Answer to Notice of Opposition.pdf(158084 bytes)

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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: Serial No. 90-815,519
Mark: KÜHL MOUNTAIN MULE
Filed: July 7, 2021
Published: November 23 ,2021
Opposition No. 91275159

MAST-JAEGERMEISTER US, INC.,	
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Opposer,	
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v.	
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ALFWEAR, INC.,	
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Applicant.	
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ANSWER TO NOTICE OF OPPOSITION

Applicant Alfwear, Inc., by and through its undersigned counsel, answers Opposer Mast-Jaegermeister US, Inc.'s Notice of Opposition as follows:

1. Applicant admits that the German word "kühl" means "cool" in English. As to the remaining allegations of paragraph 1, Applicant lacks sufficient information to form a belief as to their truth or falsity and on that ground denies them.

2. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 2 and on that ground denies them.

3. Applicant lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 3 and on that ground denies them.

4. Applicant denies the allegations of paragraph 4.

5. Applicant denies the allegations of paragraph 5.

6. Applicant denies the allegations of paragraph 6.

7. Applicant denies the allegations of paragraph 7.

8. The contents of Applicant's Application speaks for itself. Applicant otherwise lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations of paragraph 8 and on that ground denies them.

9. With respect to paragraph 9, Applicant admits that it filed a complaint for trademark infringement and dilution against Opposer. The complaint speaks for itself as to its contents. Applicant specifically denies that Opposer's use of the term KÜHL is descriptive. Applicant lacks sufficient information to form a belief as to the truth or falsity of the famousness of Opposer's Jägermeister liqueur. Applicant admits that the identified civil action is currently on appeal to the Tenth Circuit.

10. As to the allegations of paragraph 10, the Notice of Suit speaks for itself.

11. As to the allegations regarding use of KÜHL by various companies, Applicant lacks information sufficient to form a belief as to their truth or falsity and on that ground denies them. Applicant otherwise denies the allegations of paragraph 11.

12. Applicant denies the allegations of paragraph 12.

Applicant further denies that Opposer is entitled to any relief.

Applicant denies each and every allegation of the Notice of Opposition not specifically and expressly admitted.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE **(Failure to State Claim)**

The Notice of Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE **(Waiver, Estoppel, Consent and Ratification)**

On information and belief, the Notice of Opposition fails, in whole or in part, under the doctrines of waiver, estoppel, consent, and ratification.

THIRD AFFIRMATIVE DEFENSE **(Acquiescence)**

On information and belief, the Notice of Opposition fails, in whole or in part, under the doctrine of acquiescence.

FOURTH AFFIRMATIVE DEFENSE
(Secondary Meaning)

Applicant expressly denies that its KÜHL MOUNTAIN MULE mark is deceptive, deceptively misdescriptive, or merely descriptive. In the alternative, Applicant asserts that the Notice of Opposition fails because Applicant's KÜHL mark has acquired secondary meaning.

OTHER AFFIRMATIVE DEFENSES RESERVED

Applicant reserves the right to assert any additional affirmative defenses as may be warranted by discovery in this matter.

REQUEST FOR RELIEF

WHEREFORE, Applicant requests that the Trademark Trial and Appeal Board dismiss Opposer's Notice of Opposition and allow Applicant's Application Serial No. 90/815,519.

DATED this 28th day of April, 2022.

RAY QUINNEY & NEBEKER P.C.

/s S. Brandon Owen /

S. Brandon Owen
Adam K. Richards

BAKER IP PLLC

/s Trent Baker/

Trent Baker

Attorneys for Applicant Alfwear, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of April, 2022, I served a true and correct copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** via email on the following:

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- via ECF System
- via E-Mail
- via U.S. Mail, Postage Prepaid

Attorneys for Opposer Mast-Jägermeister US, Inc.

Dated this 28th day of April, 2022.

/s Kelly D. Pickering /
Kelly D. Pickering