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Filing date: **05/02/2022**

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

|                        |   |
|------------------------|---|
| Proceeding no.         | 91275242  |
| Party                  | Defendant<br>Roar Beverages, Inc.   |
| Correspondence address | CHERYL L. BURBACH<br>HOVEY WILLIAMS LLP<br>10801 MASTIN BLVD., SUITE 1000<br>OVERLAND PARK, KS 66210<br>UNITED STATES<br>Primary email: <a href="mailto:tmdocketing.burbach@hoveywilliams.com">tmdocketing.burbach@hoveywilliams.com</a><br>Secondary email(s): <a href="mailto:clb@hoveywilliams.com">clb@hoveywilliams.com</a> , <a href="mailto:jmashburn@hoveywilliams.com">jmashburn@hoveywilliams.com</a><br>913-647-9050 |
| Submission             | Answer  |
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| Signature              | /Cheryl L. Burbach/   |
| Date                   | 05/02/2022  |
| Attachments            | Roar Beverages Answer to Notice of Opposition 91275242.pdf(178988 bytes )   |

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

|  |   |                                |
|--|---|--------------------------------|
| In the matter of Trademark Appl'n No.    | ) |                                |
| 90191406                                 | ) |                                |
| For the Mark: COMPLETE HYDRATION         | ) |                                |
| Filing date: September 18, 2020          | ) |                                |
|  | ) |                                |
| <b>Kent Precision Foods Group, Inc.,</b> | ) |                                |
| <b>Opposer,</b>                          | ) |                                |
|  | ) |                                |
| v.                                       | ) | <b>Opposition No. 91275242</b> |
|  | ) |                                |
| <b>Roar Beverages, Inc.,</b>             | ) |                                |
| <b>Applicant.</b>                        | ) |                                |
|  | ) |                                |

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Roar Beverages, Inc. (“Applicant”), by its attorneys, hereby answers the Notice of Opposition (“Notice”).

As to the first unnumbered paragraph, Applicant denies that Kent Precision Foods Group, Inc., (“Opposer”) would be harmed by registration of COMPLETE HYDRATION as a mark and admits that Opposer has opposed Application Serial No. 90/191,406 (the “Application”) filed by Applicant. Applicant denies the remaining allegations contained in the first unnumbered paragraph of the Notice.

As to the second unnumbered paragraph, Applicant denies the allegations therein.

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

2. Applicant admits the allegations in Paragraph 2 of the Notice.

3. Applicant admits the Application was filed on September 18, 2020 for the mark COMPLETE HYDRATION as a trademark in the U.S. Patent and Trademark Office on an intent-to-use basis under Application Serial No. 90191406, but denies the remaining allegations in

Paragraph 3 of the Notice and states the U.S. Patent and Trademark Office (“USPTO”) records speak for themselves. Further, Applicant later amended the description of goods in the Application to: Powdered nutritional supplement drink mix in International Class 5 and Powders used in the preparation of non-alcoholic, water-based beverages, namely sports beverages, energy drinks, fruit-flavored beverages, and soft drinks; Non-alcoholic beverages, namely, soft drinks, carbonated beverages in International Class 32.

4. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 4 of the Notice and, therefore, denies the same.

5. Applicant denies that Opposer has used the phrases COMPLETE HYDRATION SOLUTION and COMPLETE HYDRATION SAFETY PROGRAM in capital letters, as trademarks, or in standalone form as presented in the Notice. Applicant is without sufficient information to admit or deny the remaining allegations contained in Paragraph 5 of the Notice and, therefore, denies the same.

6. Applicant is without sufficient information to admit or deny the allegations contained in the second sentence of Paragraph 6 of the Notice, but denies the remaining allegations contained in Paragraph 6 of the Notice.

7. Applicant denies the allegations contained in Paragraph 7 of the Notice.

8. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 8 of the Notice and, therefore, denies the same.

9. Applicant states that the copies of the Facebook posts from August 4, 2020, August 10, 2020, and August 14, 2020, respectively, shown in Exhibit B of the Notice appear to be true and accurate copies, and speak for themselves. But Applicant denies the remaining allegations contained in Paragraph 9 of the Notice.

10. Applicant states that the copy of the June 29, 2021 press release attached as Exhibit

C to the Notice appears to be a true and accurate copy, and speaks for itself. But Applicant denies the remaining allegations contained in Paragraph 10 of the Notice.

11. Applicant denies the allegations contained in Paragraph 11 of the Notice.

12. Applicant states that the copy of the Amazon product description shown in Paragraph 12 and in Exhibit D of the Notice appears to be a true and accurate copy, and speaks for itself. Applicant denies the remaining allegations contained in Paragraph 12 of the Notice.

13. Applicant states that the copy of the Amazon product information shown in Paragraph 13 and in Exhibit E of the Notice appears to be a true and accurate copy, and speaks for itself. Applicant denies the remaining allegations contained in Paragraph 13 of the Notice.

14. Applicant states that the copy of the November 15, 2021 Facebook post shown in Paragraph 14 and in Exhibit F of the Notice appears to be a true and accurate copy, and speaks for itself. But Applicant denies the remaining allegations contained in Paragraph 14 of the Notice.

15. Applicant states that the copy of the JUST ONLY ORGANIC distributor product page shown in Paragraph 15 and in Exhibit G of the Notice appears to be a true and accurate copy, and speaks for itself. But Applicant denies the remaining allegations contained in Paragraph 15 of the Notice.

16. Applicant states that the copy of the Giant distributor product page shown in Paragraph 16 and in Exhibit H of the Notice appears to be a true and accurate copy, and speaks for itself.

17. Applicant denies the allegations contained in Paragraph 17 of the Notice and, therefore, denies the same.

18. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 18 of the Notice and, therefore, denies the same.

19. Applicant is without sufficient information to admit or deny the allegations

contained in Paragraph 19 of the Notice and, therefore, denies the same.

20. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 20 of the Notice and, therefore, denies the same.

21. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 21 of the Notice and, therefore, denies the same.

22. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 22 of the Notice and, therefore, denies the same.

23. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 23 of the Notice and, therefore, denies the same.

24. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 24 of the Notice and, therefore, denies the same.

25. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 25 of the Notice and, therefore, denies the same.

26. Applicant denies the allegations contained in Paragraph 26 of the Notice.

27. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 27 of the Notice and, therefore, denies the same.

28. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 28 of the Notice and, therefore, denies the same.

29. Applicant denies the allegations contained in Paragraph 29 of the Notice.

### **AFFIRMATIVE DEFENSES**

By way of further Answer, Applicant alleges the following affirmative defenses:

1. Applicant incorporates by reference each and every defense, fact and allegation referenced above and below to support each and every defense herein.

2. Applicant's mark is suggestive of the goods listed in the Application and, therefore,

inherently distinctive.

3. The combination of terms “complete” and “hydration” in Applicant’s mark requires consumers to exercise imagination, thought, and perception to reach a conclusion about the nature of Applicant’s goods and, therefore, is suggestive.

4. The principal function of Applicant’s mark is to identify and distinguish the source of Applicant’s goods.

5. The disclaimer of “hydration” in the opposed mark does not deprive Applicant of any later-acquired trademark rights Applicant has in the disclaimed matter.

6. Third parties have used and registered trademarks containing the term “complete” for related goods without requiring proof of secondary meaning, further evidencing that the USPTO does not consider the term “complete” as descriptive as used in connection with Applicant’s goods.

7. Opposer has failed to show by clear and convincing evidence that the relevant public perceives the opposed mark, as a whole, as generic.

8. Opposer has failed to demonstrate that competitive harm would result if the opposed mark were registered, further evidencing that Applicant’s mark is not generic.

WHEREFORE, Applicant prays that the Notice be dismissed with prejudice.

May 2, 2022

Respectfully submitted,

By: /s/ Cheryl L. Burbach  
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ATTORNEYS FOR APPLICANT

## CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via electronic mail, e-mail, on this 2<sup>nd</sup> day of May, 2022 to:

Glenn S. Bacal  
BACAL LAW GROUP, P.C.  
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ATTORNEYS FOR OPPOSER

/s/ Cheryl L. Burbach  
Cheryl L. Burbach