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Filing date: **06/08/2022**

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

Proceeding no.	91275359
Party	Plaintiff Unity IPR ApS
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Submission	Answer to Counterclaim
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Date	06/08/2022
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Unity IPR ApS) Opposition No. 91275359
)
) Mark: UNITY
Opposer,) Registration No.: 4978183
) Filing Date: December 18, 2015
) Registration Date: June 14, 2016
v.)
) Mark: UNITY
Unitypay LLC,) Registration No.: 6121758
) Filing Date: January 4, 2019
) Registration Date: August 11, 2020
Applicant.)
_____)

ANSWER TO COUNTERCLAIM FOR PARTIAL CANCELLATION OR LIMITATION OF REGISTRATIONS

Unity IPR ApS (“Opposer”), hereby responds to and answers the Counterclaim For Partial Cancellation or Limitation of Registrations (the “Counterclaim”), filed by Unitypay LLC (“Applicant”) as follows:

With respect to the initial unnumbered paragraph of the Counterclaim, Opposer does not have sufficient information to admit or deny the allegations and, therefore, they are denied.

With respect to the numbered paragraphs of the Counterclaim, Opposer responds as follows:

1. Opposer does not have sufficient information to admit or deny the allegations in Paragraph 1 of the Counterclaim and, therefore, they are denied.
2. Admitted.
3. Denied.
4. Denied.

5. Denied.

6. Denied.

7. Opposer admits that it owns US Registration Nos. 4978183 and 6121758 (the “Registrations”) for the mark UNITY for, *inter alia*, the Class 9 goods listed in the chart included in Paragraph 7 of the Counterclaim. Except as expressly admitted, Opposer denies the allegations in Paragraph 7 of the Counterclaim.

8. Admitted.

9. Opposer believes that the allegations in Paragraph 9 of the Counterclaim are legal conclusions or allegations that do not require a response. To the extent that a response is required, Opposer denies the allegations in Paragraph 9 of the Counterclaim.

10. Paragraph 10 incorporates the above paragraphs of the Counterclaim by reference and does not require a separate response. Opposer incorporates the preceding responses to the above paragraphs of the Counterclaim by reference.

11. Opposer believes that the allegations in Paragraph 11 of the Counterclaim are legal conclusions or allegations that do not require a response. To the extent that a response is required, Opposer denies the allegations in Paragraph 11 of the Counterclaim.

12. Denied.

13. Opposer believes that the allegations in Paragraph 13 of the Counterclaim are legal conclusions or allegations that do not require a response. To the extent that a response is required, Opposer denies the allegations in Paragraph 13 of the Counterclaim.

14. Paragraph 14 incorporates the above paragraphs of the Counterclaim by reference and does not require a separate response. Opposer incorporates the preceding responses to the above paragraphs of the Counterclaim by reference.

15. Opposer believes that the allegations in Paragraph 15 of the Counterclaim are legal conclusions or allegations that do not require a response. To the extent that a response is required, Opposer denies the allegations in Paragraph 15 of the Counterclaim.

16. Denied.

17. Opposer believes that the allegations in Paragraph 17 of the Counterclaim are legal conclusions or allegations that do not require a response. To the extent that a response is required, Opposer denies the allegations in Paragraph 17 of the Counterclaim.

WHEREFORE, it is respectfully requested that the Board deny Applicant's Counterclaim.

AFFIRMATIVE DEFENSES

First Affirmative Defense **(Laches)**

1. Applicant had actual and/or constructive notice of the applications for the Registrations, and/or actual and/or constructive notice of the Registrations, but did not oppose the applications for the Registrations when they were published for opposition on March 29, 2016 and May 26, 2020.

2. Applicant unreasonably delayed in challenging the Registrations and Applicant's delay materially prejudiced Opposer.

3. Accordingly, Applicant's claims are barred by the doctrine laches.

Second Affirmative Defense **(Unclean Hands)**

1. Applicant's claims are barred by the doctrine of unclean hands because, *inter alia*, Opposer's use of the UNITY mark in connection with the Class 9 goods Applicant seeks to cancel in the Counterclaim is easily verifiable through a cursory review of Opposer's website.

Therefore, Applicant brought this Counterclaim in order to improperly force Opposer to respond to spurious claims that have no basis in fact.

Dated: June 8, 2022

Respectfully submitted,

/Benjamin S. White /

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