


ESTTA Tracking number: **ESTTA1216208**

Filing date: **06/17/2022**

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

Proceeding no.	91276027
Party	Defendant MODOS TECHNOLOGIES, INC.
Correspondence address	KAREN C. KLINE DUANE MORRIS LLP 30 SOUTH 17TH STREET BR-IPD PHILADELPHIA, PA 19103-4196 UNITED STATES Primary email: kckline@duanemorris.com Secondary email(s): ipdocketing@duanemorris.com 561-962-2100
Submission	Answer
Filer's name	Karen C. Kline
Filer's email	kckline@duanemorris.com, ipdocketing@duanemorris.com
Signature	/Karen C. Kline/
Date	06/17/2022
Attachments	Answer to Notice of Opposition.pdf(144755 bytes )

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

MOTUS LLC,	)	
	)	Opposition No. 91276027
Opposer,	)	
v.	)	App. Ser. No. 88742826
	)	
LUXURY AUTOMOTIVE	)	Mark:
TRANSPORTATION SERVICES, LLC,	)	
	)	
Applicant.	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Luxury Automotive Transportation Services, LLC<sup>1</sup> (“Applicant”), by and through undersigned counsel, hereby responds to the Notice of Opposition (“Opposition”) filed by Motus LLC (“Opposer”) as follows:

1. Applicant admits that Opposer has filed the above-referenced opposition proceeding against Applicant’s Mark. Applicant denies that Opposer will be damaged by the registration of Applicant’s Mark. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 1 of the Opposition and must, therefore, deny the same.

2. Admitted with respect to the mailing address for Modos Technologies, Inc. and Respondent’s counsel’s email address. However, Applicant is Luxury Automotive Transportation Services, LLC, having an address at 20860 N.W. 2nd Avenue, Miami, Florida 33169. *See* footnote 1.

---

<sup>1</sup> The current case caption and TTABVue records identify Modos Technologies, Inc. as the respondent/defendant in this proceeding. However, an assignment of App. Ser. No. 88742826 from Modos Technologies, Inc. to Luxury Automotive Transportation Services, LLC was recorded on March 1, 2022 at Reel 7646/Frame 0053. Accordingly, the “Applicant” and respondent in this proceeding is Luxury Automotive Transportation Services, LLC.

3. Denied.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Opposition and must, therefore, deny the same.

5. Admitted that, as of the filing of this Answer, the USPTO records identify Opposer as the owner of U.S. Trademark Registration No. 4,819,183 for the stated mark and goods/services. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 5 of the Opposition and must, therefore, deny the same.

6. Admitted that, as of the filing of this Answer, the USPTO records identify Opposer as the owner of U.S. Trademark Registration No. 6,193,383 for the stated mark and goods/services. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 5 of the Opposition and must, therefore, deny the same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Opposition and must, therefore, deny the same.

8. Applicant reasserts and incorporates by reference all foregoing Answers as if fully set forth herein.

9. Denied.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Opposition and must, therefore, deny the same.

11. Admitted that Applicant, including through its predecessor, adopted and filed App. Ser. No. 88742826 for the mark and goods/services stated in the Application. Applicant is

without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 11 of the Opposition and must, therefore, deny the same.

12. Admitted.

13. Denied.

14. Denied.

15. Denied.

16. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16 of the Opposition regarding the timing or scope of any prior use asserted by Opposer and must, therefore, deny the same. To the extent any priority is asserted over Applicant's Mark based on a likelihood of confusion, the allegations in paragraph 16 are denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Applicant reasserts and incorporates by reference all foregoing Answers as if fully set forth herein.

22. Denied.

23. Admitted.

24. Denied.

25. Admitted that the Application and amendment to allege use filings included declarations by Sascha Doering, CEO of Modos Technologies, Inc. The remaining allegations in paragraph 25 of the Opposition are denied.

26. Admitted that the USPTO issued a Notice accepting the amendment to allege use as meeting the minimum filing requirements of 37 C.F.R. §2.76(e). Upon information and belief, the remaining allegations in paragraph 26 of the Opposition are denied.

27. Admitted that the USPTO approved Applicant's Mark for publication. The remaining allegations in paragraph 27 of the Opposition are denied.

28. Denied.

### **AFFIRMATIVE DEFENSES**

29. With respect to paragraphs 21-28 of the Opposition, the Opposition fails to state a claim for which relief may be granted.

30. Opposer's asserted MOTUS marks are invalid because the term "MOTUS" is subject to widespread uncontrolled third party use, is not inherently distinctive, and is not associated exclusively with Opposer's goods or services.

31. Opposer will not be damaged by the registration of Applicant's Mark and, therefore, lacks standing to oppose registration of Applicant's Mark.

32. Applicant's MODOS & Design mark, when used on or in connection with the applied-for goods and services does not resemble Opposer's MOTUS marks, when used on or in connection with their respective goods and services, as to create a likelihood of confusion, mistake, or deception as to source or endorsement, sponsorship or approval, or as to cause confusion, mistake, or deception as between the parties.

33. Applicant reserves the right to raise additional defenses or counterclaims as may become apparent through discovery and up to the trial.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed, with prejudice, and that a registration be issued to Applicant for its mark.

Respectfully submitted,

DUANE MORRIS LLP

Dated: June 17, 2022

By: */Karen C. Kline*

Karen C. Kline  
1875 NW Corporate Blvd, Suite 300  
Boca Raton, FL 33431  
Telephone: (561) 962-2132  
Facsimile: (561) 962-2101  
Email: kckline@duanemorris.com

*Attorneys for Applicant  
Luxury Automotive Transportation  
Services, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition has been served on Opposer via email to its attorney of record on June 17, 2022:

Suzann Moskowitz  
THE MOSKOWITZ FIRM LLC  
suzann@themoskowitzfirm.com, admin@themoskowitzfirm.com

*/Karen C. Kline/*  
Karen C. Kline