

ESTTA Tracking number: **ESTTA1217981**

Filing date: **06/28/2022**

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


Proceeding no.	91276388
Party	Defendant HERBAL BRANDS, INC.
Correspondence address	MATTHEW A. HOMYK BLANK ROME LLP ONE LOGAN SQUARE PHILADELPHIA, PA 19103 UNITED STATES Primary email: mhomyk@blankrome.com 215-569-5360
Submission	Answer
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Date	06/28/2022
Attachments	Answer and Affirmative Defenses.pdf(58819 bytes)

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

In re Application of Herbal Brands, Inc.

Application Nos.: (1) 90680990; (2) 90781821

Filed: (1) April 29, 2021; (2) June 18, 2021

Marks: (1) JOYSOL; (2) 

Jean Patou,	:	
	:	
Opposer,	:	
	:	
v.	:	Opp. No.: 91276388
	:	
Herbal Brands, Inc.,	:	
	:	
Applicant.	:	
	:	

ANSWER AND AFFIRMATIVE DEFENSES

Herbal Brands, Inc., Applicant in the above-captioned action, by and through its attorneys, Blank Rome LLP, answers the allegations contained in Opposer's Notice of Opposition as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in

Paragraph 4 of the Notice of Opposition, and therefore denies the same.

5. Applicant admits only that the accuracy of the registration number, the registration date, the corresponding mark, the class information, and the identifications of goods contained in Paragraph 5 of the Notice of Opposition is confirmed by the Trademark Status & Document Retrieval of the USPTO as of June 27, 2022. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 5 of the Notice of Opposition, including but not limited to ownership, and the same are therefore denied.

6. Applicant admits only that the accuracy of the registration number is confirmed by the Trademark Status & Document Retrieval of the USPTO as of June 27, 2022. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 of the Notice of Opposition, including but not limited to validity and exclusivity, and the same are therefore denied.

7. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 of the Notice of Opposition, and therefore denies same.

8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 of the Notice of Opposition, and therefore denies same.

9. Considering that Applicant's marks are not identical or confusingly similar to any of Opposer's marks cited in its Notice of Opposition, no license, consent, or permission from Opposer is appropriate or necessary, and Applicant therefore denies same.

10. Denied.

11. Applicant repeats its above responses to Paragraphs 1 through 10.

12. Applicant admits only that it is a division of Clever Leaves Holdings, Inc. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12 of the Notice of Opposition, and therefore denies same.

13. Admitted.

14. Denied.

AFFIRMATIVE DEFENSES

1. Opposer fails to state an adequate basis for its claim that Applicant's marks are not in lawful use in commerce where the provision of the identified goods is unlawful under federal

law. None of Applicant's goods in International Class 3 are illegal under the federal Controlled Substances Act (CSA).

2. Applicant reserves the right to assert all defenses disclosed or developed in the course of discovery or trial.

WHEREFORE, Applicant, having fully and completely answered the Notice of Opposition, prays that final judgment be entered:

A. Dismissing with prejudice the Notice of Opposition, as presented in Opposition No. 91276388;

B. Granting Applicant such other and further relief as the Board deems just and proper.

Respectfully submitted,

Herbal Brands, Inc.

Date: June 28, 2022

By:



Matthew A. Homyk
Its Attorney

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