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

Proceeding no.	91281548
Party	Plaintiff Alcora Corporation
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Date	04/11/2023
Attachments	ANSWER_File Copy.pdf(146105 bytes)

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

In the Matter of U.S. Trademark Application No. 90/532,199

Mark: MODERN NATURED

Application Filing Date: February 17, 2021

Alcora Corporation,)	
)	
Opposer,)	
)	Opposition No. 91281548
)	
v.)	Serial No. 90/532,199
)	
Emma Okyere,)	
)	
)	
Applicant.)	

ANSWER TO COUNTERCLAIMS

COMES NOW, Alcora Corporation (“Opposer”), and hereby responds to the Counterclaims filed by Emma Okyere (“Applicant”) and shows as follows:

**RESPONSE TO SPECIFIC ALLEGATIONS
CONTAINED IN APPLICANT’S COUNTERCLAIMS**

1. Opposer admits the existence of the trademark application as set forth in Paragraph 21 of Applicant’s Counterclaims. The contents of that application speak for themselves.

2. The allegations contained in Paragraph 22 of the Counterclaim are admitted.

3. Opposer admits the existence of the specimen filed in Trademark Application Serial No. 87/977,173 (the “173 Specimen”), and that such specimen was filed on August 31, 2018, as set forth in Paragraph 23 of the Counterclaim. The contents of the ‘173 Specimen speak

for themselves. The exhibits to Applicant's Counterclaim were not labeled, and so Opposer lacks knowledge or information sufficient to form a belief as to the truth or falsity of what is contained in Applicant's Exhibit D.

4. Opposer admits the existence of the '173 Specimen as set forth in Paragraph 24 of the Counterclaim. The contents of the '173 Specimen speak for themselves.

5. Opposer admits the existence of the '173 Specimen as set forth in Paragraph 25 of the Counterclaim. The contents of the '173 Specimen speak for themselves. The exhibits to Applicant's Counterclaim were not labeled, and so Opposer lacks knowledge or information sufficient to form a belief as to the truth or falsity of what is contained in Applicant's Exhibit D.

6. Opposer admits the existence of the '173 Specimen as set forth in Paragraph 26 of the Counterclaim. The contents of the '173 Specimen speak for themselves.

7. Opposer admits that some shampoo bottles display one or more trademarks on the front face of the bottle. Opposer denies any assertion or implication that the "front face" of a product's packaging is the only location in which source identifiers are commonly displayed. Further, Opposer is without knowledge or information sufficient to form a belief as to whether the products cited by Applicant form a representative sample of products of the type sold by Opposer under the mark WE ARE MODERN NATURE. Opposer therefore denies the remaining allegations in Paragraph 27.

8. Opposer denies any assertion or implication that the "front face" of a product's packaging is the only location in which source identifiers are commonly displayed, and, therefore, denies the allegations in Paragraph 28.

9. Opposer admits that some bottles containing products such as hair masks, hair oils, hair treatment preparations, face oils, and/or body washes display one or more trademarks

on the front face of the bottle. Opposer denies any assertion or implication that the “front face” of a product’s packaging is the only location in which source identifiers are commonly displayed. Further, Opposer is without knowledge or information sufficient to form a belief as to whether the products cited by Applicant form a representative sample of products of the type sold by Opposer under the mark WE ARE MODERN NATURE. Opposer therefore denies the remaining allegations in Paragraph 29.

10. Opposer denies any assertion or implication that the “front face” of a product’s packaging is the only location in which source identifiers are commonly displayed, and, therefore, denies the allegations in Paragraph 30.

11. Opposer admits that it filed an opposition proceeding challenging the registration of Applicant’s Trademark Application Serial No. 90/532,199. Opposer denies any assertion or implication that Applicant has any priority or rights superior to Opposer’s U.S. Trademark Registration No. 5,591,959 for the mark WE ARE MODERN NATURE. Opposer is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 31 of Applicant’s Counterclaims and, therefore, denies the remaining allegations contained in Paragraph 31 of Applicant’s Counterclaims.

12. Opposer admits the existence of the trademark application as set forth in Paragraph 32 of Applicant’s Counterclaims. The contents of that application speak for themselves.

13. The allegations contained in Paragraph 33 of the Counterclaim are admitted.

14. Opposer admits the existence of the specimen filed in Trademark Application Serial No. 87/438,400 (the “400 Specimen”), and that such specimen was filed on August 27, 2018, as set forth in Paragraph 34 of the Counterclaim. The contents of the ‘400 Specimen speak

for themselves. The exhibits to Applicant's Counterclaim were not labeled, and so Opposer lacks knowledge or information sufficient to form a belief as to the truth or falsity of what is contained in Applicant's Exhibit G.

15. Opposer admits the existence of the '400 Specimen as set forth in Paragraph 35 of the Counterclaim. The contents of the '400 Specimen speak for themselves.

16. Opposer admits the existence of the '400 Specimen as set forth in Paragraph 36 of the Counterclaim. The contents of the '400 Specimen speak for themselves. The exhibits to Applicant's Counterclaim were not labeled, and so Opposer lacks knowledge or information sufficient to form a belief as to the truth or falsity of what is contained in Applicant's Exhibit G.

17. Opposer admits the existence of the '400 Specimen as set forth in Paragraph 37 of the Counterclaim. The contents of the '400 Specimen speak for themselves. The '400 Specimen filed on August 27, 2018 depicts a box, not a bottle, and so Opposer denies the remaining allegations contained in Paragraph 37 of the Counterclaim.

18. Opposer admits that some shampoo bottles display one or more trademarks on the front face of the bottle. Opposer denies any assertion or implication that the "front face" of a product's packaging is the only location in which source identifiers are commonly displayed; moreover, the '400 Specimen filed on August 27, 2018 depicts a box, not a shampoo bottle. Because the exhibits to Applicant's Counterclaims are not labeled, and because "shampoo" is not one of the products listed in Opposer's Trademark Application Serial No. 87/438,400, Opposer is without knowledge or information sufficient to form a belief as to whether the products cited by Applicant form a representative sample of products of the type sold by Opposer under the mark WE ARE MODERN NATURE, and therefore denies the remaining allegations in Paragraph 38.

19. Opposer denies any assertion or implication that the “front face” of a product’s packaging is the only location in which source identifiers are commonly displayed. Moreover, “shampoo” is not one of the goods listed in Opposer’s Trademark Application Serial No. 87/438,400. Thus, Opposer denies the allegations in Paragraph 39.

20. Opposer admits that some bottles containing products such as hair masks, hair oils, hair treatment preparations, face oils, and/or body washes display one or more trademarks on the front face of the bottle. Opposer denies any assertion or implication that the “front face” of a product’s packaging is the only location in which source identifiers are commonly displayed. Further, Opposer is without knowledge or information sufficient to form a belief as to whether the products cited by Applicant form a representative sample of products of the type sold by Opposer under the mark WE ARE MODERN NATURE. Opposer therefore denies the remaining allegations in Paragraph 40.

21. Opposer denies any assertion or implication that the “front face” of a product’s packaging is the only location in which source identifiers are commonly displayed. Moreover, the goods “hair masks, hair oils, face oils, and body washes” are not cited in Opposer’s Trademark Application Serial No. 87/438,400 or the resultant registration. Opposer therefore denies the allegations in Paragraph 41.

22. Opposer admits that it filed an opposition proceeding challenging the registration of Applicant’s Trademark Application Serial No. 90/532,199. Opposer denies any assertion or implication that Applicant has any priority or rights superior to Opposer’s U.S. Trademark Registration No. 5,596,620 for the mark WE ARE MODERN NATURE. Opposer is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining

allegations contained in Paragraph 42 of Applicant's Counterclaims and, therefore, denies the remaining allegations contained in Paragraph 42 of Applicant's Counterclaims.

Responding to the concluding prayer, Opposer denies that the relief requested by the Applicant is warranted in the instant case.

Any allegation not expressly admitted herein is expressly denied.

WHEREFORE, Opposer prays that, pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), U.S. Trademark Application Serial No. 90/532,199 be denied, and that Opposer be granted any such other relief as may be deemed just and proper.

Dated: April 11, 2023

Respectfully submitted,

/Emily R. Billig/

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**ATTORNEYS FOR OPPOSER,
ALCORA CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of April, 2023, a copy of the Answer to Counterclaims was served upon the following via e-mail:

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