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

Proceeding no.	91282357
Party	Defendant Capital FX, LLC
Correspondence address	DAYNA THOMAS, ESQ. THE LAW OFFICE OF DAYNA THOMAS, LLC 531 ROSELANE STREET NW, SUITE 400-201 MARIETTA, GA 30060 UNITED STATES Primary email: dayna@daynathomaslaw.com Secondary email(s): trademarks.dtlaw@gmail.com, nnenna@daynathomaslaw.com 404-287-2374
Submission	Answer
Filer's name	Dayna Thomas
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Signature	/Dayna Thomas/
Date	01/25/2023
Attachments	Answer - Notice of Opposition - SHAQ THE SHARK.pdf(99085 bytes)

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

ABG-Shaq, LLC,

Opposer,

v.

Capital FX, LLC,

Applicant.

Opposition No.: 91282357

In the matter of:

Application Serial No. 97/069,145

Published on August 23, 2022

Mark:

SHAQ THE SHARK

ANSWER

COMES NOW, Capital FX, LLC (“Applicant”), by Counsel, The Law Office of Dayna Thomas, LLC, and Answers the Notice of Opposition filed by ABG-Shaq, LLC (hereinafter “Opposer”), and assigned Opposition No. 91282357.

Applicant hereby responds, solely for the purpose of this proceeding, to each of the grounds set forth in the Notice of Opposition, as follows:

1. Applicant is without information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Notice of Opposition, and therefore denies them.
2. Applicant is without information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Notice of Opposition, and therefore denies them.
3. Applicant is without information sufficient to form a belief as to the truth of the allegations in

- paragraph 3 of the Notice of Opposition, and therefore denies them.
4. Applicant is without information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Notice of Opposition, and therefore denies them.
 5. Applicant is without information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Notice of Opposition, and therefore denies them.
 6. Applicant admits the allegations of paragraph 6 of the Notice of Opposition to the extent the records of the USPTO are accurate and corroborate the facts alleged.
 7. Applicant admits the allegations of paragraph 7 of the Notice of Opposition to the extent the records of the USPTO are accurate and corroborate the facts alleged. However, Applicant is without information sufficient to form a belief as to the truth of the remaining allegations in paragraph 7 of the Notice of Opposition, and therefore denies them.
 8. Applicant denies the allegations of paragraph 8 of the Notice of Opposition.
 9. Applicant denies the allegations of paragraph 9 of the Notice of Opposition.
 10. Applicant denies the allegations of paragraph 10 of the Notice of Opposition.
 11. Applicant denies the allegations of paragraph 11 of the Notice of Opposition.
 12. Applicant admits the allegations of paragraph 12 of the Notice of Opposition to the extent the paragraph correctly lists Applicant's services in Applicant's Application Serial No. 97/069,145. However, Applicant denies the remaining allegations of paragraph 12.
 13. Applicant is without information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Notice of Opposition, and therefore denies them.
 14. Applicant reincorporates its responses to paragraphs 1 through 13 as if the same were restated verbatim herein.
 15. Applicant denies the allegations of paragraph 15 of the Notice of Opposition.

16. Applicant denies the allegations of paragraph 16 of the Notice of Opposition.
17. Applicant denies the allegations of paragraph 17 of the Notice of Opposition.
18. Applicant denies the allegations of paragraph 18 of the Notice of Opposition.
19. Applicant reincorporates its responses to paragraphs 1 through 18 as if the same were restated verbatim herein.
20. Applicant denies the allegations of paragraph 20 of the Notice of Opposition.
21. Applicant denies the allegations of paragraph 21 of the Notice of Opposition.
22. Applicant denies the allegations of paragraph 22 of the Notice of Opposition.
23. Applicant reincorporates its responses to paragraphs 1 through 22 as if the same were restated verbatim herein.
24. Applicant is without information sufficient to form a belief as to the truth of the allegations in paragraph 24 of the Notice of Opposition, and therefore denies them.
25. Applicant denies the allegations of paragraph 25 of the Notice of Opposition.
26. Applicant reincorporates its responses to paragraphs 1 through 25 as if the same were restated verbatim herein.
27. Applicant denies the allegations of paragraph 27 of the Notice of Opposition.
28. Applicant denies the allegations of paragraph 28 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

FUTHERMORE, Applicant sets forth the following in support of its defense:

29. Applicant's mark is used in connection with training, consulting, mentoring, blogging, and vlogging in the field of financial services, credit repair, and business and personal credit.
30. Upon information and belief, Applicant's customers are sophisticated purchasers.

31. Upon information and belief, Opposer's customers are sophisticated purchasers.
32. Applicant's mark is not the same as or confusingly similar to any of Opposer's marks.
33. Applicant's mark and each of Opposer's pleaded marks have different appearances.
34. Applicant's mark and each of Opposer's pleaded marks have different sounds.
35. Applicant's mark and each of Opposer's pleaded marks have different connotations and meanings.
36. Applicant's mark and each of Opposer's pleaded marks have different commercial impressions.
37. The services listed in Applicant's application are not the same as or related to any of Opposer's pleaded marks.
38. Applicant's mark and each of Opposer's pleaded marks have dissimilar trade channels.
39. Applicant's mark and each of Opposer's pleaded marks have different conditions under which and buyers to whom sales are made.
40. Applicant's mark and the pleaded marks of Opposer are not likely to cause confusion, mistake, or deception among purchasers as to the source of Opposer's and Applicant's respective goods.
41. Opposer's pleaded marks are not likely to be damaged by continued registration and use of Applicant's mark.
42. Applicant's mark is likely to be understood by consumers as referring to Shaquille Wiggins, Applicant's principal member and the face of Applicant's brand and services.
43. Applicant is recognized in the financial industry as a credible educator and consultant.
44. Applicant is a small business that is harmed by Opposer's litigation tactics whereby Opposer has attempted to enforce its alleged trademark rights beyond a reasonable interpretation of the scope of Opposer's rights in Opposer's pleaded marks.

Applicant hereby appoints Dayna Thomas, a member of the Bar of the State of Georgia, and

Nnenna T. Opara, a member of the Bars of the State of Georgia and the State of Florida, at the firm of:

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to act as attorneys in the matter of the opposition identified above, to prosecute said opposition, to transact all business in the Patent and Trademark Office connected with the opposition, to sign its name to all papers which are hereinafter to be filed in connection therewith, and to receive all communications relating to the same.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board deny the Notice of Opposition.

Dated this 25th day of January, 2023.

Respectfully submitted for Applicant,

The Law Office of Dayna Thomas, LLC



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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing ANSWER has been served on ABG-Shaq, LLC c/o Bridgette Fitzpatrick by delivering said copy on January 25, 2023, via email at the following email addresses:

bfitzpatrick@authenticbrands.com and rdorazio@authenticbrands.com

Dated this 25th day of January, 2023.

Respectfully submitted for Applicant,

The Law Office of Dayna Thomas, LLC



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