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

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|------------------------|--|
| Proceeding no. | 91284805 |
| Party | Defendant FU, GRACE TINGTING |
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| Submission | Answer |
| Filer's name | Stephen L. Anderson |
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| Signature | /StephenLAnderson/ |
| Date | 05/26/2023 |
| Attachments | ANSWER to NOTICE OF OPPOSITION -91284805-f-052623.pdf(224699 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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|----------------------|---|--------------------------------|
| Candle Science, LLC, |) | Opposition No. 91284805 |
| |) | |
| Opposer, |) | Application Ser. No.: 97336471 |
| |) | |
| v. |) | Mark: CANDLE LAB (and design) |
| |) | |
| GRACE TINGTING FU |) | |
| |) | |
| Applicant |) | |
| _____ |) | |



APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Comes now, Applicant, Grace Tingting Fu, (“Applicant”), for her answer to the Notice of Opposition filed by Candle Science, LLC (“Opposer”), against Applicant’s registration of the mark CANDLE LAB (and design), shown in Trademark Application Serial No.: 97/336471.

Applicant hereby generally and specifically denies every allegation contained in the Notice of Opposition hereinafter not specifically admitted, modified, or qualified, and strict proof is demanded thereof. Applicant denies the prefatory allegation in the unnumbered introductory paragraph that Opposer will be damaged by registration of the Applicant’s mark and otherwise further responds as follows:

1. In response to the allegations contained in paragraph 1 of the Notice of Opposition, (“Opposition”) Applicant is presently without knowledge or information sufficient to admit or deny said allegations and therefore denies same. Otherwise, to the extent that the allegations contained in paragraph 1 refer to or include any official records, such documents and/or records speak for themselves.

2. Paragraph 2 of the Opposition consists of a statement, argument, or conclusion of law to which no admission or denial is required. To the extent a response is required, Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 2 as to the alleged Registration No. 3605099 and therefore denies such allegations. Applicant further denies that the alleged incontestable status of Registration No. 3605099 relates to or otherwise affects the validity of any of Opposer's other alleged "CANDLESCIENCE Marks."

3. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 3 of the Opposition and therefore denies said allegations.

4. Applicant is without sufficient information to admit or deny the allegations contained in Paragraph 4 of the Opposition, and thusly denies said allegations.


5. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in Paragraph 5 of the Opposition and thusly denies same.

6. Applicant is without knowledge or information sufficient to admit or deny the allegations contained in Paragraph 6 of the Opposition as to the alleged Registration No. 3605099 and therefore denies that Opposer has continuously used the mark shown in alleged Registration No. 3605099 in interstate commerce since at least as early as August 6, 2002. Applicant denies the truth of the remainder of the allegations contained in paragraph 6.


7. Applicant is without knowledge or information sufficient to admit or deny the allegations contained in Paragraph 7 of the Opposition and thusly denies such allegations.

8. In response to the allegations contained in paragraph 8 of the Opposition, Applicant



states that U.S. Serial No. 97/336471 for the mark  was filed on March 29, 2022, alleging use of the subject mark since at least as early as January 01, 2022, in connection with the services in Int. Class 035 as are identified therein. Applicant denies any allegations contained in paragraph 8 that are inconsistent U.S. Serial No. 97/336471.



9. Applicant denies that registration of her mark  for the services identified in U.S. Serial No. 97/336471 is likely to cause confusion with any mark asserted by Opposer. Applicant further denies that registration of the mark shown in the subject application would damage or injure Opposer. Applicant denies any assertion or implication that Applicant's mark and/or U.S. Serial No. 97/336471 are likely to cause confusion with Opposer's alleged "CANDLESCIENCE Marks." Applicant further denies that Opposer has any priority of use in relation to Applicant's distinctive CANDLE LAB mark.

10. To the extent not otherwise admitted or qualified, Opposer's allegations in paragraphs 1-9 of the Opposition are denied.

11. Applicant is without knowledge or information sufficient to admit or deny the allegations contained in Paragraph 11 of the Opposition and thusly denies such allegations.

12. Applicant denies the allegations contained in paragraph 12 of the Opposition.

13. Applicant denies the allegations contained in paragraph 13 of the Opposition.

14. Applicant denies the allegations contained in paragraph 14 of the Opposition.

15. Applicant denies the allegations contained in paragraph 15 of the Opposition.


16. Applicant denies the allegations contained in paragraph 16 of the Opposition.

Applicant denies the prayer for relief and denies that that Opposer is entitled to any relief whatsoever.


AFFIRMATIVE DEFENSES

Applicant sets forth the following defenses. Characterizing the defenses below as “Affirmative Defenses” does not shift the burden of proof to Applicant with respect to any issues for which Opposer carries the burden of proof.

- A. The Notice of Opposition fails to state a claim for which relief may be granted.
- B. Opposer’s claims may be barred by the doctrines of estoppel, waiver, and/or laches.
- C. Opposer does not have priority over or rights superior to Applicant’s rights in

the CANDLE LAB and  marks or U.S. Serial No. 97/336471 for the services provided by Applicant.

D. The field of marks employing the term “CANDLE” and variations thereof is crowded and hence weak. Therefore, Opposer’s purported rights extend no further than to the specific marks that Opposer alleges it owns, none of which are the same as or likely to cause confusion with Applicant’s proposed mark.

E. Applicant’s unique and fanciful  mark, when viewed as a whole, and used in connection with Applicant’s services, is not likely to cause confusion, or to cause mistake, or to deceive as to any affiliation, connection, or association with the Opposer nor any of its

alleged CANDLESCIENCE Marks when properly considered in light of the marketplace realities as to the parties' business.

F. Applicant's target customers are not likely to confuse Applicant's services with any goods or services on which Opposer allegedly uses its existing CANDLESCIENCE Marks.

G. Applicant reserves the right to assert additional defenses that may be revealed through discovery and as appropriate and necessary.

WHEREFORE, Applicant maintains that the Opposition is groundless and baseless in fact; that Opposer cannot show that it will be, or is likely to be, damaged by Applicant's Application. Accordingly, Applicant prays that the Opposition be dismissed and respectfully requests that registration of her mark be allowed.

Dated: May 26, 2023

ANDERSON LAW

Respectfully submitted,

by: /StephenLAnderson/
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San Diego, California 92122
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Telephone (951) 296-1700
Attorney for Applicant

CERTIFICATE OF SERVICE

I declare that:

On May 26, 2023, I caused the foregoing:

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

to be served on the attorney(s) for Opposer, namely:

MICHAEL L. KRASHIN
BANNER & WITCOFF, LTD.
71 SOUTH WACKER DRIVE, SUITE 3600
CHICAGO, IL 60606

by email to:

mkrashin@bannerwitcoff.com, hsmith@bannerwitcoff.com, wlitdocket@bannerwitcoff.com,
and bwptotm@bannerwitcoff.com.

I declare under the penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct and that this declaration was executed in the City of Temecula, California.

May 26, 2023

/StephenLAnderson/
Stephen L Anderson