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

Proceeding no.	91285403
Party	Defendant ALO LLC
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Date	07/17/2023
Attachments	Def-Applicant Answer.pdf(387730 bytes)

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

In the Matter of U.S. Applications Serial Nos. 97472883

Marks: ALO and design

Filing Date: June 23, 2022

ALO, LLC,

Opposer,

Opposition No.: 91285403

v.

ALO, LLC,

Applicant.

ANSWER TO NOTICE OF OPPOSITION

Applicant, by and through counsel, hereby files this Answer in response to Opposer's Notice of Opposition.

FIRST DEFENSE

Applicant responds to the correspondingly enumerated allegations in the Notice of Opposition as follows:

1. Applicant admits that documents are on record with the U.S. Patent and Trademark Office that purport to show assignment by Color Image Apparel, Inc. of the cited marks to ALO, LLC, a California limited liability company; except as admitted, Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 1, and therefore denies all allegations not expressly admitted.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2, and therefore denies them.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3, and therefore denies them.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4, and therefore denies them.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5, and therefore denies them.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6, and therefore denies them.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7, and therefore denies them.

8. Applicant denies the allegations of paragraph 8 to the extent Opposer is asserting exclusive rights in the ALO mark without regard to use in connection with particular goods and services and is without knowledge or information sufficient to form a belief as to the truth of all remaining allegations of paragraph 8, and therefore denies them.

9. Applicant admits that Opposer is currently reflected in the electronic database of the U.S. Patent and Trademark Office as the registrant of the marks identified in paragraph 9; Applicant is without knowledge or information sufficient to form a belief as to the truth of all remaining allegations of paragraph 9, and therefore denies them.

10. Applicant admits that the records attached as Exhibit A to the Notice of Opposition appear to be copies of documents available in TSDR, which speak for themselves;

Applicant is without knowledge or information sufficient to form a belief as to the truth of all remaining allegations of paragraph 10, and therefore denies them.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore denies them.

12. Applicant admits that record of an application having serial number 88759109 as substantially described in paragraph 12 is currently available in TSDR, which record speaks for itself; except as expressly admitted, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12, and therefore denies them.

13. Applicant denies that the category “wellness-related products” is in the “natural zone of expansion from [Opposer’s] other goods and services” as alleged in paragraph 13; Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 13, and therefore denies them.

14. Applicant admits that record of an application having serial number 87782928 as described in paragraph 14 is currently available in TSDR, which record speaks for itself; except as expressly admitted, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14, and therefore denies them.

15. Applicant denies the allegations of paragraph 15.

16. Applicant admits the allegations of paragraph 16.

17. Applicant admits the allegations of paragraph 17.

18. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18, and therefore denies them.

19. Applicant denies the allegations of paragraph 19.

20. Applicant admits that its applied-for mark and Opposer's cited marks share the common literal element ALO; except as expressly admitted, Applicant denies the allegations of paragraph 20.

21. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21, and therefore denies them.

22. Applicant denies the allegations of paragraph 22.

23. Applicant denies the allegations of paragraph 23.

24. Applicant denies the allegations of paragraph 24.

25. Applicant denies the allegations of paragraph 25.

26. Applicant denies the allegations of paragraph 26.

27. Applicant denies the allegations of paragraph 27.

28. Applicant denies the allegations of paragraph 28.

29. Applicant denies the allegations of paragraph 29.

30. Applicant denies the allegations of paragraph 30.

31. Applicant incorporates herein its responses above to the allegations incorporated into paragraph 31.

32. The allegations of paragraph 32 constitute a summary paraphrase of part of section 2(d) of the Lanham Act requiring no response.

33. Applicant denies the allegations of paragraph 33.

34. Applicant denies the allegations of paragraph 34.

35. Applicant denies the allegations of paragraph 35.

36. In response to the allegations of paragraph 36, Applicant admits that the Director has authority under 15 U.S.C. § 1068 to refuse registration of a mark when proper legal grounds exist for refusal, but denies that such grounds for refusal are present in this case.

FIRST AFFIRMATIVE DEFENSE

Opposer should be denied relief on grounds of unclean hands.

SECOND AFFIRMATIVE DEFENSE

Opposer lacks exclusive rights in the designation ALO in connection with the goods and services that are the subject of applications serial numbers 88759109 and 87782928 and that it alleges are “wellness-related goods and retail and wholesale-related services” within its “natural zone of expansion.”

WHEREFORE, having fully answered the Notice of Opposition, Applicant prays that this Opposition be dismissed.

Respectfully submitted this 17th day of July, 2023.

Respectfully submitted,

/J. Dickson Phillips, III/

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer to Notice of Opposition was served on counsel of record for Opposer by email to:

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This 17th day of July, 2023.

/J. Dickson Phillips, III/

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