

ESTTA Tracking number: **ESTTA1314979**Filing date: **10/10/2023**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91286558
Party	Defendant Troy Alexander Heyward
Correspondence address	THOMAS W. BROOKE HOLLAND & KNIGHT LLP 800 17TH STREET, NW SUITE 1100 WASHINGTON, DC 20006 UNITED STATES Primary email: thomas.brooke@hklaw.com Secondary email(s): ptcketing@hklaw.com 202-663-7271
Submission	Answer
Filer's name	Thomas W. Brooke
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Signature	/Thomas W. Brooke/
Date	10/10/2023
Attachments	Troy Amended Answer and Aff Defenses.pdf(659897 bytes )

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

19 MK LLC	:
Opposer	: Opposition No.: 91/286,558
	: Serial No.: 90/573,655
v.	:
Troy Alexander Heyward	: Mark: <b>TROY SKINCARE</b>
Applicant.	: Filing Date: March 11, 2021

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**AMENDED ANSWER AND AFFIRMATIVE DEFENSES**

Applicant Troy Alexander Heyward (Applicant) hereby answers the Notice of Opposition filed by 19 MK LLC as follows:

1. Admitted
2. Applicant admits that Opposer is the record owner of US Trademark Applications for the marks **TROY LIFESTYLE** and **TROY MARCUS**.
3. The documents attached is Exhibit A to the Notice of Opposition speak for themselves.
4. Applicant admits that Opposer claims first use of the mark **TROY LIFESTYLE** in March 2017 and the mark **TROY MARCUS** on November 4, 2022. Applicant is without knowledge of the remaining facts alleged in the Notice of Opposition and therefore denies same.
5. Applicant is without knowledge of the facts alleged in Paragraph 5 of the Notice of Opposition and therefore denies same.
6. Admitted.
7. Admitted.
8. Admitted.
9. Applicant is without knowledge of Opposer's first awareness of Applicant and its application and therefore denies same. Applicant admits that he received a cease-and-desist letter from Opposer's attorney in March 2023.
10. Applicant admits that he received a letter dated July 12, 2023, from Opposer's attorney.

11. Applicant admits that he filed its US trademark application based upon an intent to use and admits that he has begun use of **TROY SKINCARE** mark.
12. Applicant admits that he has an Instagram page but denies any allegations regarding infringement.
13. Applicant admits that he has a YouTube page but denies any allegations regarding to “unauthorized use.”
14. Applicant admits that he uses the **TROY SKINCARE** mark in connection with skincare products. The remaining allegations remaining in Paragraph 14 are conclusion of law and therefore Applicant denies same.
15. Paragraph 15 is a series of conclusions of law and Applicant therefore denies same.
16. Applicant is without knowledge of Opposer’s common law rights and therefore denies same.
17. Applicant is without knowledge of Opposer’s use of **TROY** formative marks and therefore denies same.
18. Applicant is without knowledge of Opposer’s use of the **TROY LIFESTYLE** and other **TROY** formative marks and there denies same.
19. Applicant admits that he is not affiliated with Opposer but denies that he requires any authorization to use their **TROY SKINCARE** mark.
20. Applicant is without knowledge of the facts alleged in Paragraph 20 and therefore denies same.
21. This paragraph is a conclusion of law and therefore Applicant denies same.
22. This paragraph is a conclusion of law and therefore Applicant denies same.
23. This paragraph is a conclusion of law and therefore Applicant denies same.

### **AMENDED AFFIRMATIVE DEFENSES**

1. On information and belief, Opposer has not made consistent use of its **TROY** marks and if it had made use at all, such use is de minimus.
2. On information and belief, Opposer has abandoned its rights to the **TROY** formative marks.
  - A. Applicant has conducted commercial investigations of Opposer and found little, if any evidence that Opposer has marketed or sold any goods or services under its **TROY** marks.

- B. Applicant's investigation included reviews of Applicant's website at <https://www.troylifestyle.com/>, which does not indicate that any products are sold under the **TROY MARCUS** mark, let alone **TROY** formative marks.
- C. Applicant also reviewed the history of the troylifestyle website on the Internet Archive Wayback Machine and found little or no evidence of commercial activity.
- D. Applicant did extensive market research before launching his business and found no evidence that Opposer offered any goods or services under any mark, let alone **TROY** formative marks.
3. The commercial impressions created by Applicant's mark and Opposer's marks are different.
4. There is no likelihood of confusion between the **TROY MARCUS** and **TROY LIFESTYLE** and **TROY** formative marks allegedly owned by Opposer, and the **TROY SKINCARE** mark owned by Applicant.

RESPECTFULLY SUBMITTED,

TROY ALEXANDER HEYWARD

BY: 

THOMAS W. BROOKE  
HOLLAND & KNIGHT LLP  
800 17<sup>th</sup> Street, N.W.  
Washington, DC 20006

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Answer and Affirmative Defenses has been served on Ana Juneja, Esq., Ana Law LLC by forwarding said copy on October 10, 2023, via email docket@analaw.com to: (444 N. Michigan Avenue, Suite 1200, Chicago, Illinois 60611).

By: 

Date: Oct. 10, 2023