

ESTTA Tracking number: **ESTTA1326106**Filing date: **12/04/2023**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|------------------------|---|
| Proceeding no.         | 91286816  |
| Party                  | Defendant<br>LaVerne Petry  |
| Correspondence address | ADRIANO PACIFICI<br>INTELLECTUAL PROPERTY CONSULTING, LLC<br>400 POYDRAS STREET<br>SUITE 1400<br>NEW ORLEANS, LA 70130<br>UNITED STATES<br>Primary email: apacifici@iplawconsulting.com<br>Secondary email(s): creid@iplawconsulting.com, uspto.tms@gmail.com<br>504-323-6600 |
| Submission             | Answer  |
| Filer's name           | Adriano Pacifici  |
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| Signature              | /APacifici/   |
| Date                   | 12/04/2023  |
| Attachments            | Applicant Answer to Notice of Opposition KULTURE KLOTHING CLUB.pdf(215201 bytes )   |

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

Serial No. 97/406,757

Mark: KULTURE KLOTHING CLUB

Culture Kings USA Inc.,  
Opposer,

v.

LaVerne Petry,  
Applicant.

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Opposition No.: 91286816

**APPLICANT’S ANSWER TO THE NOTICE OF OPPOSITION  
AND AFFIRMATIVE DEFENSES**

Applicant LaVerne Petry (“Applicant”), owner of the Federal Trademark Application No. 97/406,757 for the KULTURE KLOTHING CLUB mark (“Applicant’s Mark”) hereby answers the Notice of Opposition (the “Opposition”) filed by Culture Kings USA Inc (“Opposer”) as follows:

Applicant denies the allegations in all unnumbered paragraphs in the Opposition.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations in ¶ 1 of the Opposition, and therefore denies all allegations therein.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations in ¶ 2 of the Opposition, and therefore denies all allegations therein.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations in ¶ 3 of the Opposition, and therefore denies all allegations therein.

4. Applicant admits the allegations in ¶ 4 of the Opposition.

5. Applicant's application serial no. 97/406,757 speaks for itself. As such, Applicant does not believe that an answer is necessary to the allegations in ¶ 5 of the Opposition. However, out of an abundance of caution, if an answer is necessary, Applicant admits that the information contained within application serial no. 97/406,757 is accurate.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations in ¶ 6 of the Opposition, and therefore denies all allegations therein.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations in ¶ 7 of the Opposition, and therefore denies all allegations therein.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations in ¶ 8 of the Opposition, and therefore denies all allegations therein.

9. Applicant does not believe that an answer is necessary to ¶ 9 of the Opposition, as the allegations in ¶ 9 call for a legal conclusion. However, out of an

abundance of caution, if an answer is necessary, Applicant denies the allegations in ¶ 9 of the Opposition.

10. Applicant does not believe that an answer is necessary to ¶ 10 of the Opposition, as the allegations in ¶ 10 call for a legal conclusion. However, out of an abundance of caution, if an answer is necessary, Applicant denies the allegations in ¶ 10 of the Opposition.

11. Applicant does not believe that an answer is necessary to ¶ 11 of the Opposition, as the allegations in ¶ 11 call for a legal conclusion. However, out of an abundance of caution, if an answer is necessary, Applicant denies the allegations in ¶ 11 of the Opposition.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations in ¶ 12 of the Opposition, and therefore denies all allegations therein.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations in ¶ 13 of the Opposition, and therefore denies all allegations therein.

### **AFFIRMATIVE DEFENSES**

FURTHERMORE, Applicant sets forth the following affirmative defenses in support of its position. Applicant reserves the right to assert additional defenses if and when appropriate, including without limitation based upon information disclosed in

discovery. In asserting these defenses, Applicant does not assume the burden of proof for any issues with respect to which the relevant law places the burden of proof on opposer:

1. The Notice of Opposition fails to state a claim upon which relief can be granted.

2. Given the differences between the parties' respective marks, products, trade channels, among other factors, there is no likelihood of confusion to support Opposer's claims.

3. Opposer's CULTURE KINGS marks are weak and diluted. Specifically, the terms "CULTURE" and "KINGS" are used by a number of companies and should be afforded weakened protection.

4. Opposer's claims are barred by the doctrines and equitable defenses of laches, waiver, acquiescence, unclean hands, and estoppel.

5. The above defenses and affirmative defenses are based on the facts and information currently known to Applicant. Applicant reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Lanham Act, and any other defenses or counterclaims at law or in equity that may now exist or in the future be available based on discovery and further factual investigation in this case, and hereby reserves its right to amend this Answer to assert such defense(s).

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed with prejudice because Opposer is not entitled to any relief requested in the Opposition.

DATED: December 4, 2023

Respectfully submitted,

s/APacifici/

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of this pleading has been served upon Opposer's Counsel via the email addresses of record on this 4th day of December 2023.

/s/ Adriano Pacifici

Adriano Pacifici