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

Proceeding no.	91288009
Party	Defendant Scott Anglin
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Date	12/08/2023
Attachments	4883-7834-9718 v.1 Answer to Notice of Opposition - Opposition No. 91 288009.pdf(143924 bytes)

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

In the Matter of Application Serial No. 97596472
For the mark: OLLIE’S DAY (and Design)
Published: September 5, 2023

OLLIE’S BARGAIN OUTLET, INC.,

Opposer,

v.

SCOTT ANGLIN,

Applicant.

Opposition No.: 91288009

ANSWER TO NOTICE OF OPPOSITION

Applicant Scott Anglin (“Applicant”), through counsel, by way of its Answer to the Notice of Opposition filed in this matter by Ollie Bargain Outlet, Inc. (“Opposer”), hereby states as follows:

1. Applicant denies the allegations of Paragraph 1 with regard to the damage alleged by Opposer. Applicant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 1, and therefore denies the same.
2. Applicant admits the allegations in Paragraph 2.
3. Applicant admits the allegations in Paragraph 3.
4. Applicant admits it is based in Tennessee. Applicant otherwise lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 4, and therefore denies the same.

5. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5, and therefore denies the same.
6. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 6, and therefore denies the same.
7. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 7, and therefore denies the same.
8. Applicant denies the allegations in Paragraph 8.
9. Applicant denies the allegations in Paragraph 9.
10. Applicant denies that its services are similar to Opposer's since, among other reasons, Opposer seems to offer bargain or discount shopping. Applicant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations about Opposer's actions or registrations in Paragraph 10, and therefore denies the same.
11. Applicant's goods and services are sufficiently limited to avoid likelihood of confusion with Opposer's goods and services, and Applicant serves different customers from Opposer, so Applicant denies the allegation of similarity of customers or trade channels. Applicant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations about Opposer's actions or registrations in Paragraph 11, and therefore denies the same.
12. Applicant lacks knowledge or information sufficient to form a belief about the truth of the Opposer's beliefs in Paragraph 12, and therefore denies the same.
13. Applicant admits that Opposer's OLLIE'S Registrations (as defined in the Notice of Opposition) were filed or registered prior to Applicant's constructive first use date of September 19, 2022 (as alleged by Opposer). Applicant lacks knowledge or information

sufficient to form a belief about the truth of the remaining allegations about Opposer's actions or registrations in Paragraph 13, and therefore denies the same.

14. Applicant hereby incorporates by reference and re-alleges each response or statement set forth in Paragraphs 1 through 13.
15. Applicant denies the allegations in Paragraph 15.
16. Applicant denies the allegations in Paragraph 16.

Applicant respectfully requests that this Opposition be denied and the opposed application be allowed to proceed to registration.

AFFIRMATIVE DEFENSES

As and for separate affirmative defenses, Applicant alleges the defenses set forth below. Applicant reserves the right to amend these, raise additional affirmative defenses, or file counterclaim based on information obtained in and through discovery.

1. Failure to state a claim. Opposer fails to state a claim upon which relief can be granted at least because, inter alia, the claim fails to allege sufficient facts to establish a likelihood of confusion.
2. No likelihood of confusion. Applicant has not infringed, and does not infringe, Opposer's alleged trademark rights because Applicant's products are not likely to cause confusion with the rights of Opposer.
3. Invalidity by abandonment. Opposer's purported trademark rights and/or asserted registration are invalid for non-use during each three-year period of claimed use since the claimed date of first use.

Respectfully submitted,

/s/ Scott M. Douglass

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CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2023, this document ANSWER TO NOTICE OF OPPOSITION was served electronically by the U.S. Patent and Trademark Office's automatic filing system to counsel for Applicant as forth below:

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/s/ Scott M. Douglass

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