

ESTTA Tracking number: **ESTTA1334222**Filing date: **01/16/2024**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91288558
Party	Defendant Llapingacho LLC
Correspondence address	SEAN D. DETWEILER MORSE, BARNES-BROWN & PENDLETON, P.C. 480 TOTTEN POND ROAD, 4TH FLOOR WALTHAM, MA 02451 UNITED STATES Primary email: ttab@morse.law Secondary email(s): sdetweiler@morse.law, pzacharakis@morse.law 781-622-5930
Submission	Answer
Filer's name	Paige K. Zacharakis
Filer's email	ttab@morse.law, pzacharakis@morse.law, sdetweiler@morse.law
Signature	/Paige K. Zacharakis/
Date	01/16/2024
Attachments	2024.01.16 Answer Notice of Opposition Kushki Mundial.pdf(140661 bytes)

numbered paragraphs, each limited as far as practicable to a single set of circumstances.” As such, no response is required to the footnotes included in the Notice of Opposition. To the extent a response is required to a footnote, each footnote is discussed in the relevant numbered paragraph in which it appears.

1. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the allegations of paragraph 1 of the Notice of Opposition and therefore denies the same.

2. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the allegations of paragraph 2 of the Notice of Opposition and therefore denies the same.

3. Applicant states that the documents attached as Exhibit A to the Notice of Opposition speak for themselves. In stating herein that a document speaks for itself, Applicant is not independently admitting the accuracy of any term or statement in such a document. To the extent any allegation contained in paragraph 3 constitutes a conclusion of law, no response is required. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the remaining allegations of paragraph 3 of the Notice of Opposition and therefore denies the same.

4. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the allegations of paragraph 4 of the Notice of Opposition and therefore denies the same.

5. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the allegations of paragraph 5 of the Notice of Opposition and therefore denies the same.

6. Applicant admits that it filed an Application to register the mark



with the USPTO (Application No. 97667275). To the extent paragraph 6 references a document (namely Application No. 97667275), said document speaks for itself.


Applicant denies any characterization of Application No. 97667275 contained in paragraph 6 that is inconsistent with its terms. Applicant denies the remaining allegations in paragraph 6.

7. Admitted.

8. Admitted that Applicant was aware of Opposer's four U.S. Trademark Registrations as alleged in paragraph 3 of the Notice of Opposition at the time that Application No. 97667275 was filed. Applicant also admits that it was aware of Opposition No. 91272072 that Opposer filed against Applicant's Application No. 90199163. Applicant denies the remaining allegations in paragraph 8.

9. Admitted.

10. Applicant admits that Opposition Nos. 91272072 and 91283229 (now consolidated into Opposition No. 91272072) are still in the discovery period. Applicant denies the remaining allegations in paragraph 10.

11. Applicant admits that, according to the USPTO records, Opposer filed what is now Registration No. 6,000,277 (for the mark  kueski) on April 22, 2019. To the extent that paragraph 11 implies that all of the "KUESKI Marks" as that term is defined in the Notice of Opposition are awarded the April 22, 2019 filing date, such allegation is denied.

12. Applicant admits that it filed its Application No. 97667275 on November 8, 2022. The remaining allegations contained in paragraph 12 constitute a legal conclusion to which no response is required.

13. The allegations contained in paragraph 13 constitute a legal conclusion to which no response is required.

14. To the extent the first sentence of paragraph 14 references a document (namely Opposer's Registrations and Applications attached to the Notice of Opposition as Exhibit A),

said document speaks for itself. Applicant denies any characterization of Opposer's listed goods and services that are not identical to what is included in the respective Registrations and Applications. To the extent the second sentence of paragraph 14 references a document (namely Application No. 97667275), said document speaks for itself. Applicant denies any characterization of Application No. 97667275 contained in paragraph 14 that is inconsistent with its terms. The third sentence of paragraph 14 constitutes a legal conclusion to which no response is required.

15. The allegations contained in paragraph 15 constitute a legal conclusion to which no response is required.

16. The allegations contained in paragraph 16 constitute a legal conclusion to which no response is required.

17. Denied.

18. Denied.

19. The allegations contained in paragraph 19 constitute a legal conclusion to which no response is required.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Opposer's claims are barred because Applicant is the senior user.

Second Affirmative Defense

There is no likelihood of confusion because the respective goods and services are different.

Third Affirmative Defense

There is no likelihood of confusion because the targeted purchasers are different.

Fourth Affirmative Defense

There is no likelihood of confusion because the marks are completely different in sight, sound, meaning and commercial impression.

Fifth Affirmative Defense

Opposer's claims may be barred by additional defenses that may arise or become known as this matter progresses and Applicant therefore reserves the right to plead additional affirmative defenses upon further investigation and discovery.

Respectfully Submitted,

LLAPINGACHO, LLC,

By its attorneys,

/s/ Paige K. Zacharakis

Paige K. Zacharakis, Esq.

Sean Detweiler, Esq.

Morse, Barnes-Brown, and Pendleton, P.C.,

480 Totten Pond Rd., 4th Floor

Waltham, MA 02451

(781) 622-5930

pzacharakis@morse.law

sdetweiler@morse.law

Dated: January 16, 2024

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2024, I caused a true and correct copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION to be served by email upon the following attorney of record for KUESKI, S.A.P.I. DE C.V., SOFOM, E.N.R.:

CAITLIN R. BYCZKO

BARNES & THORNBURG LLP

11 S. MERIDIAN ST.

INDIANAPOLIS, IN 46204

UNITED STATES

cbyczko@btlaw.com, ipdocket@btlaw.com, adegler@btlaw.com, jfroemel@btlaw.com

/s/ Paige K. Zacharakis

Paige K. Zacharakis