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Filing date: **12/26/2023**

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

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer information

Name	Mintable Pte. Ltd.		
Entity	Corporation	Incorporated or registered in	Singapore
Address	2 VEERASAMY ROAD #02-00 SINGAPORE, 207305 SINGAPORE		

Attorney information	ELIZABETH M. VELEZ LEWIS BAACH KAUFMANN MIDDLEMISS PLLC 10 GRAND CENTRAL 155 EAST 44TH STREET, 25TH FLOOR NEW YORK, NY 10017 UNITED STATES Primary email: elizabeth.velez@lbkmlaw.com Secondary email(s): annika.conrad@lbkmlaw.com, james.macfadyen@lbkmlaw.com, arthur.middlemiss@lbkmlaw.com (212) 826-7001		
Docket no.			

### Applicant information

Application no.	97566272	Publication date	11/28/2023
Opposition filing date	12/26/2023	Opposition period ends	12/28/2023
Applicant	Mintology Inc. APT 1 236 E 15TH ST NEW YORK, NY 10003 UNITED STATES		

### Goods/services affected by opposition

Class 035. First Use: Dec 6, 2021 First Use In Commerce: Dec 6, 2021  
All goods and services in the class are opposed, namely: Provision of an on-line marketplace for buyers and sellers of downloadable digital art images, coupons, clothing, and footwear, authenticated by blockchain-based nonfungible tokens

### Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

## Mark cited by opposer as basis for opposition

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	MINTOLOGY		
Goods/services	Provision of an online marketplace for blockchain-based nonfungible tokens		

Related proceedings	Mintable Pte. Ltd. v. Mintology Inc., No. 23-cv- 08215 (S.D.N.Y. Sept. 18, 2023)
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Attachments	2023.11.28 - Notice of Opposition (TTAB)(1033488.8).pdf(283156 bytes )
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Signature	/Elizabeth M. Velez/
Name	Elizabeth M. Velez
Date	12/26/2023

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

MINTABLE PTE. LTD.,  Opposer,  v.  MINTOLOGY INC.  Applicant.	<b>Opposition No.</b> _____  <b>Serial No.</b> <u>97566272</u>  <b>Mark:</b> MINTOLOGY <b>Published in <i>Official Gazette</i>:</b> <u>November 28, 2023</u> <b>Filed:</b> <u>August 26, 2022</u>
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**NOTICE OF OPPOSITION**

Opposer, MINTABLE PTE. LTD., (“Opposer” or “Mintable”), a Singapore-based corporation with a business address of 2 Veerasamy Road, #02-00, Singapore 207305, believes that it will be damaged by the registration of the mark “Mintology” (the “Mark”) that is the subject of application Serial No. 97566272 (the “Application”), published November 28, 2023 in Class 035. As a result, Opposer hereby opposes registration of the Mark.

As grounds in support of its opposition, Opposer asserts the following:

**FACTUAL BACKGROUND**

**A. Opposer’s Mintology Division**

1. Mintable, a marketplace for non-fungible tokens (“NFTs”), has been at the forefront of innovation in the NFT industry since its founding in 2018. The first platform to pioneer “gasless minting” (the process of creating NFTs without incurring fees to process transactions on blockchains), Mintable has established itself as one of the most comprehensive digital file

marketplaces built on the decentralized web.

2. Continuing its ascent, in 2021, following months of development and planning, Mintable began development of a new enterprise services arm, Mintology, which opened the NFT marketplace to corporate clients. Mintology’s website and social media accounts use the name “mintology.app” to provide NFT services to corporations. Mintable chose the unique moniker “Mintology” for the new business-to-business division after research revealed that no other company in the NFT or technology space used the name.

3. Mintable invested and continues to invest significant resources in the creation and promotion of Mintology, which has since grown to partner with global and domestic brands including but not limited to MasterCard, Mediacorp, Station Holdings LLC, Zedge Inc., Lightricks, and Immutable. In September 2021, Mintology hired its first employee. By November 2021, Mintology was appearing at industry events and festivals. In 2022, Mintology engaged in discussions with the Miami Heat, Citibank, the Royal Bank of Canada, and an American watch company about potential collaborations.

4. On or about January 10, 2022, Mintable applied to register the “Mintology” mark in Singapore, and the mark was registered later that year, on September 12, 2022. Mintable also set up Mintology’s social media presence with the name “mintology.app” and launched the Mintology website. Around March 17, 2022, Mintology launched to the general public via publication in a tech-industry news publication and on the official “mintology.app” Twitter account.

5. Mintable and Mintology’s customer base currently consists of over 1 million registered users spread across 50 plus countries, with over 28 million items for sale. They receive millions of page impressions per month.

## **B. Applicant's Later-Developed Business**

6. As Mintology was growing, cultivating brand recognition as a business-to-business platform for businesses to utilize NFTs, Applicant created the “mintology.studio” domain and Twitter account in August 2021. Mintology.studio would launch in the first quarter of 2022, by which time Opposer’s Mintology division was established, marketing its services, and discussing how to expand its footprint with international investors and clients.

7. Applicant admitted in its Application that it first used the “Mintology” name in commerce on December 6, 2021. By contrast, Opposer had been using the Mark with prospective brands and investors since the summer of 2021.

8. In or around August 2022, Applicant pivoted its business model to be an NFT commerce platform targeted to businesses, identical to Opposer’s Mintology division. That product—a mirror image of Mintable’s product—launched in November 2022. As described by its website, mintology.studio, on September 18, 2023, Applicant purported to offer its services to brands, touting that it could “instantly reach and connect with NFT native users by creating campaigns using the Mintology platform tools” and “launch their own NFT/exclusive deals to further engage with their target audience.”<sup>1</sup> Applicant’s language parroted phraseology used by Mintable in its public facing statements, including the phrases “gasless minting” and “claimable NFTs.”

9. In October of 2023, Applicant again pivoted its business model. Its original website, mintology.studio, is now inactive, and it appears to have moved its operations to a new domain, app.mintology.studio, which touts “Hot Brand Deals.” As of the date of this filing, the new website

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<sup>1</sup> See <https://www.mintology.studio/> (last visited on September 18, 2023). This link is now inactive.

is skeletal and only partially operational; three rotating ads and the links on the site all connect to an “Error” message.

**C. Applicant’s Continued Use of the Mark and Submission of the Application Despite Opposer’s Efforts to Protect the Mark**

10. Recognizing that such a similarity in name and services would confuse Opposer’s consumers, clients, and investors, and that Applicant would not provide the same high-quality goods or services as Opposer’s Mintology division, Opposer’s Singaporean counsel sent what would be the first of many cease-and-desist letters to Applicant, to the attention of its CEO, Cindy Jin, on August 11, 2022.

11. That cease-and-desist letter asserted Opposer’s senior claim to the Mark, notifying Applicant that Opposer had applied for the “Mintology” trademark in Singapore on January 10, 2022. Citing the confusingly identical names and products offered by Opposer and Applicant, the letter warned Applicant that continued use of the Mark would constitute a potential infringement of Opposer’s Mark.

12. Applicant did not respond to or heed the warning in the cease-and-desist letter. Quite the opposite; it submitted the Application on August 26, 2022.

13. Applicant attested in the Application that no other person “ha[d] the right to use the mark in commerce, either in identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.” This statement was patently false; having received the cease-and-desist letter 15 days earlier, Applicant was indisputably aware that the use of the “Mintology” name infringed on Opposer’s Mark.

14. In an attempt to resolve the issue amicably, Opposer’s Singaporean counsel sent Applicant, to the attention of Ms. Jin, follow-up letters on August 31, 2022, and September 14,

2022. Applicant did not respond to either.

15. Several months later, on May 24, 2023, Opposer's U.S. counsel sent Applicant another cease-and-desist letter, which stated that Applicant was knowingly infringing on Opposer's Mark, that its use of the trademark was made with the apparent intent to trade on the goodwill associated with Opposer's Mark, and that its attempt to register the Mark after receiving explicit notice of Opposer's senior use of the Mark evinces bad faith. Again, neither Applicant nor Ms. Jin responded to the letter.

16. On June 8, 2023, Mintable's U.S. counsel sent a letter to JPG Legal, the law firm that assisted Applicant in filing the Application, attaching the May 24, 2023 cease-and-desist letter and informing counsel of the potential litigation that would ensue if Applicant and Ms. Jin did not cease and desist from all use of the Mark. JPG Legal acknowledged receipt of the letter on June 12, 2023, and stated that they had reached out to their client. However, Applicant never responded to the letter.

#### **D. Opposer's Suit Against Applicant**

17. After its numerous cease-and-desist letters went unanswered, Opposer filed a lawsuit in the Federal District Court for the Southern District of New York against Applicant and Cindy Jin on September 18, 2023, alleging claims of trademark infringement under the Lanham Act (15 U.S.C. § 1225, *et seq.*), false or fraudulent procurement under the Lanham Act (15 U.S.C. § 1120), and common law trademark infringement and dilution under New York state law. *See* Compl., *Mintable Pte. Ltd. v. Mintology Inc.*, No. 23-cv-08215 (S.D.N.Y. Sept. 18, 2023) (the "SDNY Action"), ECF No. 11.

18. Applicant was served on September 21, 2023, and failed to appear, as required by Fed. R. Civ. P. 12(1)(A), by October 12, 2023. *See* Aff. of Service, SDNY Action, ECF No. 14;

Decl. of Arthur D. Middlemiss in Supp. of Req. for Clerk’s Entry of Default at ¶¶ 3-6, *id.*, ECF No. 17. On October 23, 2023, the Clerk of the Court found that Applicant had defaulted. *See* Clerk’s Certificate of Default, *id.*, ECF No. 18.

19. Per the default, Applicant concedes the allegations asserted in Opposer’s complaint—including those establishing Opposer’s prior use of the Mark. *See Bricklayers and Allied Craftworkers Local 2, Albany, N.Y., Pension Fund v. Moulton Masonry & Constr., LLC*, 778 F.3d 182, 189 (2d Cir. 2015) (“[A] party’s default is deemed to constitute a concession of all well pleaded allegations of liability....”); *Gilday v. SDS Telecom Inc.*, No. CV15692DRHGRB, 2017 WL 1088292, at \*2 (E.D.N.Y. Feb. 28, 2017), *report and recommendation adopted*, No. CV 15-6962, 2017 WL 1082424 (E.D.N.Y. Mar. 22, 2017) (“A default constitutes an admission of all well-pleaded factual allegations in the complaint....”).

#### **E. Applicant’s Continued Infringing Use of the Mark**

20. Since sending the cease-and-desist letters, Opposer’s Mintology division has continued to expand. Mintology signed formal license agreements and multiple contracts for fees ranging from \$10,000 to \$150,000. By contrast, Applicant’s “mintology.studio” domain name is inactive and has been replaced by “app.mintology.studio,” which is comprised mainly of broken links. The mintology.studio Twitter page, with 2,789 followers, has not been active since March 8, 2023, and the mintology.studio Instagram page, with 107 followers, was last updated on February 27, 2023, promoting a hotel giveaway.

21. Opposer’s growth will be limited by the actual and potential confusion created by Applicant’s continued use of the same mark in the same industry, purporting to offer the same services, and/or sullied by Applicant’s inactive social media accounts and broken website. Indeed, candidates interviewing at Opposer’s Mintology division have confused Applicant’s website for



Opposer's company. During interviews with journalists, Opposer's CEO has been asked questions about Applicant's website in relation to "Mintology." Likewise, potential partners and suppliers have mistaken the companies: Opposer's marketing firm referenced Applicant's data and information when providing services to Opposer's Mintology division.

### **PRIORITY**

22. Opposer repeats and re-alleges the allegations of Paragraphs 1 through 21, as though fully set forth herein.

23. Opposer has used the Mark in U.S. commerce prior to Applicant's adoption, use, and application to register the Mark.

24. Applicant had actual or constructive knowledge of Opposer's use of the Mark in U.S. commerce prior to filing its Application.

25. Upon information and belief, Applicant intends to use or has used the Mark in the NFT industry, where Opposer was operating with the Mark in commerce prior to the Applicant's use of said Mark and continues to operate.

26. Granting of a trademark registration to Applicant for the Mark would violate and diminish the prior and superior rights of Opposer.

27. If Applicant is allowed to register the Mark, Opposer would be damaged within the meaning of 15 U.S.C. § 1063(a), as Applicant would obtain statutory rights in the Mark in violation and derogation of the established prior common law rights of the Opposer in the Mark.

### **LIKELIHOOD OF CONFUSION**

28. Opposer repeats and re-alleges the allegations of Paragraphs 1 through 27, as though fully set forth herein.

29. Based on the Application, Applicant's use of the Mark is intended to be used or has

been used in connection with services that are identical to those rendered by Opposer.

30. Applicant's target customer and consumer base for its intended services under the Mark overlaps with the customers and consumers of Opposer's services.

31. Applicant's channels of trade for its intended services will overlap with the channels of trade used by Opposer or exist within the natural realm of expansion available to Opposer, for producing, providing, marketing, selling, and otherwise distributing Opposer's services.

32. If Applicant is allowed to register the Mark, the Mark is likely to be confused with and mistaken for Opposer's services and platform, as the mark subject to the Application is identical to that of which has been and is currently in use by the Opposer in U.S. commerce. To wit, Opposer's customers and the relevant public have already misperceived Applicant's platform and data as belonging to Opposer, and such confusion will likely continue if the Mark is registered to Applicant.

33. Likewise, any defect, objection to, or fault found with Applicant's intended services marketed under the Mark would necessarily reflect on and seriously injure the reputation that Opposer has established for the "Mintology" brand name.

34. The registration of the Mark to Applicant would give Applicant *prima facie* evidence of the validity and ownership of the Mark by Applicant, and of Applicant's exclusive right to use the Mark, all to the detriment of Opposer.

### **DILUTION**

35. Opposer repeats and re-alleges the allegations of Paragraphs 1 through 34, as though fully set forth herein.

36. Prior to Applicant's filing date of the Application, the Mark had become widely known for the above-mentioned services of Opposer, and the public has come to associate

Opposer's services with the "Mintology" name.

37. Accordingly, Opposer's use of the Mark has made the Mark distinctive and famous and, therefore, subject to the protections and remedies prescribed by Section 43(c) of the Lanham Act, 15 U.S.C. § 1225(c).

38. The registration of the Mark to Applicant will injure Opposer by causing a likelihood of dilution, through blurring and tarnishment of the distinctive quality of services rendered under Opposer's use of the Mark.

**WHEREFORE**, Opposer believes that it will be damaged by the registration of the Mark to Applicant and prays that this Notice of Opposition be sustained and that registration of the Mark to Applicant be refused.

DATED: December 26, 2023

Respectfully submitted,

LEWIS BAACH KAUFMANN  
MIDDLEMISS PLLC

By: /s/ Elizabeth M. Velez

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