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

Proceeding no.	91289728
Party	Defendant SO Supportive Ltd
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Beauty Pioneers S.R.L.,

Opposer,

v.

SO Supportive Ltd,

Applicant.

Opposition No.: 91289728

Mark: NVNT

Serial No.: 97/782,426

Publication Date: December 12, 2023

Filed: February 6, 2023

Applicant: SO Supportive Ltd

FILED UNDER SEAL [PUBLIC VERSION]

**APPLICANT’S RESPONSE AND OPPOSITION TO OPPOSER’S RESPONSE TO
ORDER TO SHOW CAUSE AND MOTION TO AMEND NOTICE OF OPPOSITION**

Applicant, SO Supportive Ltd (“Applicant”), by and through its undersigned counsel, respectfully submits the following response and opposition to Opposer, Beauty Pioneers S.R.L. (“Opposer”)’s Response to Order to Show Cause and Motion to Amend Notice of Opposition (“Motion”).

I. INTRODUCTION

On January 28, 2025, the Board issued an Order denying Opposer’s Motion to Amend the Notice of Opposition, dismissed the claims asserted in Opposer’s operative Notice of Opposition, and ordered Opposer to show cause why this opposition proceeding should not be dismissed (the “Order”). The Board dismissed Opposer’s claims for two key reasons. First, Opposer’s claims were premised on the argument that Applicant is allegedly not the rightful owner of the Subject Mark, which is an inapplicable theory in an opposition proceeding against a trademark application filed under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b). Second, the claims were based on a putative statement of ownership that was never attested to by Applicant, nor did Opposer point to a representation made by Applicant that is both material and false.

Opposer now responds to the Order with a second Motion to Amend Notice of Opposition to add a “new” claim, which should be denied. Opposer belatedly seeks to assert a claim for “LACK OF BONA FIDE INTENT TO USE AND WRONG OWNER UNDER 15 U.S.C. §

1051(b),” which is, once again, premised on the inapplicable theory of wrong owner, as well as selective citations and misinterpretation of Applicant’s discovery responses. Accordingly, Applicant respectfully requests that the Board deny Opposer’s second and belated Motion and dismiss this opposition proceeding.

II. THE BOARD SHOULD DENY OPPOSER’S SECOND REQUEST TO AMEND ITS NOTICE OF OPPOSITION

Opposer’s proposed amended Notice of Opposition is premised on the same improper factual grounds as the claims in the operative Notice of Opposition which have already been properly dismissed. Under the only count in the proposed amended notice of opposition, entitled “LACK OF BONA FIDE INTENT TO USE AND WRONG OWNER UNDER 15 U.S.C. § 1051(b),” without any authority or support, Opposer alleges that “Applicant did not have a bona fide intent to use Applicant’s Mark...” “Colour House International Ltd. should have been named as the applicant in the Application, instead of Applicant,” and “The Application is therefore void ab initio, pursuant to 15 U.S.C. § 1051(b), and the Application should be refused accordingly.” Exhibit A to Motion, ¶¶19-21. While Opposer attempts to title the claim as a claim for “lack of bona fide intent to use,” the express allegations and remainder of the title demonstrate that its proposed “new” claim is merely the same claim based on the inapplicable theory of alleged wrong owner. Indeed, Opposer claims (without any legal support) that Applicant lacked a bona fide intent because, in its own unsupported and unsupportable opinion, Applicant’s sister company should have allegedly been named as the applicant on the Subject Application. As the wrong owner theory is not applicable in opposing a trademark application filed under Section 1(b), the Motion should be denied and the opposition proceeding should be dismissed.

III. OPPOSER SELECTIVELY CITES AND MISCONSTRUES APPLICANT’S RESPONSES TO DISCOVERY. ITS PURPORTED “NEW” ALLEGATIONS DO NOT SUPPORT OR SET FORTH A CLAIM

As noted above, Opposer’s claims were dismissed in part because they were based on putative statement of ownership never attested to by Applicant. Once again, Opposer attempts to

amend its notice of opposition based on statements that do not exist. As the Board correctly pointed out, Applicant never attested to such ownership statement in its application. Opposer now selectively cites and misconstrues Applicant's responses to discovery in the Motion in a feeble attempt to support its newly minted claim. For example, Opposer cites to a relatively short response to an interrogatory, but fails to cite to other responses interrogatories, like response to Interrogatory No. 25, [REDACTED]

[REDACTED], as follows:

INTERROGATORY NO. 25:

Provide a detailed account of Your contention that supports the verified statement filed with the '426 application that states You have a bona fide intention to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e) in connection with the identified goods, that You are entitled to use the mark in commerce, and that, to the best of Your knowledge and belief no other persons have the right to use the mark in commerce, except, if applicable, concurrent users, except in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods of such other persons, to cause confusion or mistake, or to deceive.

RESPONSE TO INTERROGATORY NO. 25:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Opposer does not cite to a single case that supports its position. It baldly asserts its unsupported, unsupportable, and unsolicited opinion that “Colour House International Ltd. should have been named as the applicant in the Application, instead of Applicant,” or that the filing of the Subject Application under Applicant, a sister company of

Colour House International, was improper. As this is merely another attempt by Opposer to litigate the wrong owner theory and to prejudice Applicant, the Motion should be denied and this opposition proceeding should be dismissed.

IV. THE MOTION SHOULD BE DENIED BECAUSE OPPOSER DID NOT SET FORTH ANY EXPLANATION FOR DELAY AND ITS PURPORTEDLY “NEW” ALLEGATIONS ARE FACTS THAT WERE WELL WITHIN OPPOSER’S KNOWLEDGE AT THE TIME IT FILED THE ORIGINAL NOTICE OF OPPOSITION.

Opposer’s Motion is yet another eleventh hour and unjustified attempt at amending the Notice of Opposition based on facts that were known to Opposer since at least as early as the filing of the Notice of Opposition. Opposer’s theory is still based on the inapplicable theory of wrong owner and majority of the information produced in discovery (excluding evidence of use) was already known to Opposer: for example, [REDACTED]

[REDACTED]

[REDACTED] In this context, Opposer inexplicably delayed bringing this Motion for over 14 months, and several months after the close of discovery. As such, and because Opposer failed to explain its delay, the Motion should be denied on this ground alone. *See Trek Bicycle Corp. v. StyleTrek Ltd.*, 64 U.S.P.Q.2d 1540, 1541 (T.T.A.B. 2001) (motion to amend opposition denied where it was filed eight months after filing of notice of opposition, with no explanation for the delay, and appeared to be based on facts within opposer’s knowledge at the time opposition was filed); *Int’l Finance Corp. v. Bravo Co.*, 64 U.S.P.Q.2d 1597, 1604 (T.T.A.B. 2002) (motion denied where although discovery still open, movant provided no explanation for two-year delay in seeking to add new claim); and *Media Online Inc. v. El Clasificado Inc.*, 88 U.S.P.Q.2d 1285, 1286 (T.T.A.B. 2008) (motion for leave to amend to add claims of descriptiveness and fraud denied; petitioner unduly delayed in adding claims which were based on facts within petitioner’s knowledge at time petition to cancel was filed).

V. CONCLUSION

Based on the foregoing, Opposer's Motion should be denied and the opposition proceeding should be dismissed.

Dated: March 18, 2025

Respectfully submitted,

/s/ Leeran Kasis

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S RESPONSE AND OPPOSITION TO OPPOSER'S RESPONSE TO ORDER TO SHOW CAUSE AND MOTION TO AMEND NOTICE OF OPPOSITION** has been served on Applicant via electronic mail, to the following e-mail address(es):

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Dated: March 18, 2025

/s/
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