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

Proceeding no.	91290257
Party	Defendant Field & Fin LLC
Correspondence address	FIELD & FIN LLC 109 YARMOUTH CT DOTHAN, AL 36301 UNITED STATES Primary email: christophercthompson@yahoo.com 864-414-5588
Submission	Answer
Filer's name	Jorge M. Franco
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Date	04/22/2024
Attachments	2024.04.22-Answer Field & Fin.pdf(339477 bytes)

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

In the matter of Trademark application No. 91290257

Applicant: Field & Fin LLC

Mark: FIELD & FIN

F&S IP Owner LLC,)	
)	
Opposer,)	
)	
vs.)	Opposition No.: 91290257
)	
Field & Fin LLC,)	
)	
Applicant.)	
_____)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT’S ANSWER

In response to Opposer F&S IP Owner LLC’s (“Opposer”) Notice of Opposition, Applicant Field & Fin LLC (“Applicant”) responds as follows:

Applicant denies each and every allegation of the Notice of Opposition unless it is expressly admitted herein:

- 1) Admitted to the extent that the information listed appears to be the same information listed in Applicant’s Application.
- 2) Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 2, and therefore, denies the same.

APPLICATION PROCEEDINGS

- 3) Admitted to the extent that the information listed appears to be the same information listed in Applicant's Application.
- 4) Admitted to the extent that the information listed appears to be the same information listed in Applicant's Application.
- 5) Admitted to the extent that the information listed appears to be the same information listed in Applicant's Application.
- 6) Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 6, and therefore, denies the same.

GROUND FOR OPPOSITION

- 7) Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 7, and therefore, denies the same.
- 8) Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 8, and therefore, denies the same.
- 9) Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 9, and therefore, denies the same.
- 10) Paragraph 10 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.
- 11) Paragraph 11 calls for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies the allegations.

AFFIRMATIVE DEFENSES

- 1) First Affirmative Defense: There is no likelihood of confusion, mistake, or deception between Opposer's Mark and Applicant's Mark.
 - a. Specifically, Applicant's Mark and Opposer's Mark differ in appearance, sound,

connotation, and commercial impression.

- i. The Board has routinely found that likelihood of confusion cannot be presumed between marks, even where a mark comprises the whole of another mark, and even where the goods at issue are related. *Coca-Cola Bottling Co. v. Joseph E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (CCPA 1975). See, e.g., *S.C. Johnson & Sons, Inc. v. Johnson*, 266 F.2d 129, 121 U.S.P.Q. 590 (1959) (JOHNSON and JOHNSON PRODUCTS CO. are not confusingly similar); *Clayton Mark & Co. v. Westinghouse Elec. Corp.*, 356 F.2d 943, 53 C.C.P.A. 951, 148 U.S.P.Q. 672 (C.C.P.A. 1964) (not confusingly similar: MARK 75 for electrical circuit breakers and MARK for electrical conduits); *Colgate-Palmolive Co. v. Carter-Wallace, Inc.* 432 F.2d 1400, 58 C.C.P.A. 735, 167 U.S.P.Q. 529 (C.C.P.A. 1970) (not confusingly similar: PEAK and PEAK PERIOD); *Lever Bros. Co. v. Barcolene Co.*, 463 F.2d 1107, 59 C.C.P.A. 1162, 174 U.S.P.Q. 392 (C.C.P.A. 1972) (not confusingly similar: ALL and ALL DISWASHER ALL, FLUFFY ALL, COLD WATER ALL); *Application of Ferrero* F.2d 1395, 178 U.S.P.Q. 167 (C.C.P.A. 1973) (not confusingly similar: TIC TAC and TIC TAC TOE; *Conde Nast Publications, Inc. v. Miss Quality, Inc.*, 507 F.2d 1404, 184 U.S.P.Q. 422 (C.C.P.A. 1975) (not confusingly similar: VOGUE and COUNTRY VOGUE); *Plus Prod. v. General Mills, Inc.*, 188 U.S.P.Q. 520 (T.T.A.B. 1975) (not confusingly similar: PROTEIN PLUS and PROTEIN); *Lever Bros. Co. v. American Bakeries Co.*, 693 F.2d 251, 216 U.S.P.Q. 177 (2nd Cir. 1982) (not confusingly similar: AUTUMN

GRAIN and AUTUMN).

- ii. Phrases that convey different meanings are key factors in determining the likelihood of confusion between two marks, and even *identical* marks may “create sufficiently different commercial impressions” obviating any likelihood of confusion. TMEP § 1207.01(b)(v). *See, e.g., In re Sydel Lingerie Co.*, 197 U.S.P.Q. 629, 630 (T.T.A.B. 1977) (holding BOTTOMS UP for ladies’ and children’s underwear and BOTTOMS UP for men’s clothing not likely to cause confusion, concluding that the words connote drinking when applied to men’s clothing, but have a different connotation when applied to underwear); *In re Sears, Roebuck & Co.*, 2 U.S.P.Q.2d 1312, 1314-15 (T.T.A.B. 1987) (CROSS-OVER for bras was not confusingly similar to CROSSOVER for ladies’ sportswear given the different connotations). In assessing the potential for confusion between the marks, it's imperative to consider their inherent meanings in their respective languages. The Applicant’s Mark, FIELD & FIN, contains “FIN” which conveys the specific anatomy of the fish—a fin. On the other hand, the Opposer’s Mark, FIELD & STREAM, contains “STREAM” which carries connotations of nature and water, evoking a broader set of associations than just FIN as it relates to a small body of water.
- iii. In terms of appearance, the images associated with "FIN" and "STREAM" are disparate. "FIN" specifically evokes a fish and marine creatures, and is commonly associated with activities such as fishing and marine exploration,

while "STREAM" may evoke thoughts of nature or flowing bodies of water, such as rivers or streams, and is often associated with freshwater ecosystems. The dissimilarity in conceptual associations reinforces the distinctiveness of each term. Further, the Applicant's Mark is a specific, stylized mark which in no way resembles the Opposer's Mark.

iv. In terms of sound, Applicant's Mark is aurally distinct from Opposer's Mark. The pronunciation and phonetic qualities of "FIN" and "STREAM" differ significantly. The sharp, percussive, short sound of "FIN" contrasts with the softer, more melodious sound of "STREAM." The word "Fin" is characterized by its sharp and concise appearance, while "Stream" conveys a more flowing and elongated visual impression. Phonetically, the emphasis on the short "i" sound in "Fin" contrasts with the elongated "ee" sound in "Stream," further enhancing the auditory distinction between the two marks.

b. Finally, there are a number of third party registrations containing the terms "FIELD" for clothing in Class 025. This indicates Opposer exists in a crowded market, and Opposer's scope of protection should be limited. A representative, non-exhaustive list of these registrations is as follows:

BRANCH & FIELD Jurisdiction: US Serial: 97585616 BRANCH & FIELD	Pending Filed: 09/09/2022 Current Basis: 1b	025 Pants; Shirts; Shirts and short-sleeved shirts; Baseball caps;	Darryl G Crum 324 Ridge Dr. DEKALB, ILLINOIS UNITED STATES 60115
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<p>FIELD N' FOREST Jurisdiction: US Serial: 86080671 Registration: 4547032</p> 	<p>Published Pub: 06/10/2014 Filed: 10/02/2013 Current Basis: 1b</p>	<p>025 clothing;</p>	<p>FLEET FARM WHOLESALE SUPPLY CO. LLC</p> <p>2401 S Memorial Dr. APPLETON, WISCONSIN UNITED STATES 54915</p> <p>Attorney: JAMES L. YOUNG</p>
<p>MALLET AND FIELD Jurisdiction: US Serial: 97583686 Registration: 7244636</p> <p>Mallet & Field</p>	<p>Published Pub: 12/12/2023 Filed: 09/08/2022 Current Basis: 1a</p>	<p>025 apparel;</p>	<p>Molly Agee</p> <p>130 S. Cedros Ave Suite 200 Solana Beach, CALIFORNIA UNITED STATES 92075</p> <p>Attorney: Pollie Gautsch, Esq.</p>
<p>FIELD FLOWER Jurisdiction: US Serial: 76570813 Registration: 2972453</p> <p>FIELD FLOWER</p>	<p>Published Pub: 07/19/2005 Filed: 01/13/2004 Current Basis: 1b</p>	<p>025 women's clothing;</p>	<p>URBAN OUTFITTERS WHOLESALE, INC.</p> <p>5000 SOUTH BROAD STREET PHILADELPHIA, PENNSYLVANIA UNITED STATES 191121495</p> <p>Attorney: Kristin H. Altoff</p>

<p>FIELD TRADITIONS Jurisdiction: US Serial: 97214800</p> <p>FIELD TRADITIONS</p>	<p>Pending Filed: 01/13/2022 Current Basis: 1b</p>	<p>025 clothing;</p>	<p>Field Traditions, LLC 7832 Saddle Creek Trail Sarasota, FLORIDA UNITED STATES 34241 Attorney: Daniel R. Frijouf</p>
<p>FIELDSTAFF Jurisdiction: US Serial: 78769948 Registration: 3227140</p> <p>FIELDSTAFF</p>	<p>Published Pub: 12/09/2005 Filed: 04/10/2007 Current Basis: 1a</p>	<p>025 clothing;</p>	<p>HAAS OUTDOORS, INC. 26420 East Main Street West Point, MISSISSIPPI UNITED STATES 39773 Attorney: W. Whitaker Rayner</p>
<p>FIELD STUDY Jurisdiction: US Serial: 97902116</p> <p>FIELD STUDY</p>	<p>Pending Filed: 04/22/2023 Current Basis: 1a</p>	<p>025 hats; pants; shirts; shorts; sweatshirts;</p>	<p>BLANTON DANNY E 1391 Willowbrook Lane Upland, CALIFORNIA UNITED STATES 91784</p>
<p>FIELD SHADOW Jurisdiction: US Reg: 3514369 Serial: 78972641</p> <p>FIELD SHADOW</p>	<p>Published Reg: 10/07/2008 Filed: 09/12/2006 Current Basis: 1a</p>	<p>025 clothing;</p>	<p>KINGS CAMO, LLC 816 NORTH 2800 WEST LINDON, UTAH UNITED STATES 84042 Attorney: Richard L. Hill</p>
<p>FIELD SCOUT Jurisdiction: US Reg: 3942306 Serial: 85084849</p>	<p>Published Reg: 04/05/2011 Filed: 07/14/2010 Current Basis: 1a</p>	<p>025 clothing;</p>	<p>FIELD SCOUT, LLC 1457 E WASHINGTON BLVD. LOS ANGELES, CALIFORNIA UNITED STATES 90021</p>

FIELD SCOUT			Attorney: Darin Margules
FIELD STATION Jurisdiction: US Serial: 97216010	Pending Filed: 01/12/2022 Current Basis: 1b	025 beanies; hats; baseball caps; shirts; sweatshirts; T-shirts	Prospect Licensing, LLC 121 East Mason Street, Ste B Santa Barbara, CALIFORNIA UNITED STATES 93101 Attorney: PAULO A. DE ALMEIDA
FIELD STATION			
FIELD DRESS Jurisdiction: US Reg: 3246554 Serial: 78776441	Published Reg: 05/29/2007 Filed: 12/19/2005 Current Basis: 1a	025 clothing;	Field Dressed, LLC 8513 Broad Meadow Lane McKinney, TEXAS UNITED STATES 75071
FIELD DRESS			

2) Second Affirmative Defense: Any and all acts alleged to have been committed by Applicant were performed with lack of knowledge and lack of willful intent.

April 22, 2024

Respectfully submitted,

/s/ Jorge M. Franco, Esq.

Jorge M. Franco
Rexford Brabson
T-Rex Law, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing APPLICANT'S ANSWER is being electronically mailed to the following address:

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/s/ Jorge M. Franco

Jorge M. Franco

April 22, 2024