

ESTTA Tracking number: **ESTTA1376818**Filing date: **08/12/2024**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91292567
Party	Defendant Swarga Enterprises LLC
Correspondence address	SWARGA ENTERPRISES LLC 8324 28TH ST FLORAL PARK, NY 11004 UNITED STATES Primary email: saju.damodaran@gmail.com No phone number provided
Submission	Answer
Filer's name	Saju Damodaran
Filer's email	saju.damodaran@gmail.com
Signature	/Saju Damodaran/
Date	08/12/2024
Attachments	Tribe Theory Notice of Opposition Response.pdf(113835 bytes) Exhibit A Tribe Theory Brand.pdf(1335110 bytes) Exhibit B Tribe Theory Brand.pdf(1075885 bytes) Exhibit C Tribe Theory Brand.pdf(1879565 bytes) Exhibit D Tribe Theory Brand.pdf(510352 bytes) Exhibit E Theory Brand.pdf(321835 bytes)

Swarga Enterprises LLC DBA Tribe Theory

83-24 268th St Glen Oaks, NY 11004

To Whom it may concern:

My name is Saju Damodaran and am the Managing Member of “Swarga Enterprises LLC DBA Tribe Theory.” This correspondence serves as a response to the “Notice of Opposition” (Case No. 91292567) which was received by email on 7/10/2024. The notice of opposition was filed by Bret J Danow of “Katten Muchin Rosenman LLP”, who is the representative on file for Plaintiff the “Theory LLC. DBA Theory”

“Swarga Enterprises LLC DBA Tribe Theory” became a legal registered entity under the Internal Revenue Service and New York Department of State as of 9/23/2021. An application for a Trademark to use the Trade Name of “Tribe Theory” was applied for on 11/15/2023 and filed with the New York Department of State. The tradename “Tribe Theory” has been approved by the USPTO and published in the Trademark Official Gazette on 7/09/2024.

“Tribe Theory” is a small home-based online retail manufacturer of apparel, inclusive of T-Shirts, Hoodies and Hats. The premises behind the concept of the goods is to be sold as urban street wear that promotes cultural awareness, philosophy, music and art.

The plaintiff has filed an opposition as of 7/10/2024 citing “Class 035” that will affect their goods and services. The ground for opposition is Trademark Act Section 2(d), “Priority and likelihood of confusion.”

In response to the “Class 035” in the plaintiff’s notice of opposition, indicates that their first use was in February 1997 as a retail store in the fields of apparel, footwear and bags. “Tribe Theory” is specifically only online retail. The ground for opposition indicates “Priority and likelihood of Confusion”. Our rebuttal is that “Tribe Theory” prime target market and fashion is geared towards urban street wear dedicated to people to use our line of clothing as influencers to promote positivity, education/informative material in an eclectic fashion promoted through relatable urban street wear. This is also emphasized using famous and created quotes to be reflected on our apparel as knowledge to be shared within our community and peers. The plaintiff’s brand “Theory” is not likely to have any confusion with our trade name “Tribe Theory” that would affect their goods and services. “Theory” seems to promote very casual wear that does not resemble our apparel. Our brand also reflects logos specifically identifying our brand. “Theory” based on my research does not have logos on their apparel identifying their brand or any sort of distinction to any other apparel manufacturer in the industry, other than their preferable style of fashion, which does not resemble our preferred fashion. The scope of this matter should reside in the fact that the trade names are different, styles of clothing being opposite in fashion, the message and conveyance of our brands and our target markets.

Please find attached a picture of sample T-Shirts of our brand “Tribe Theory”, marked as Exhibits A, B, C, and D. Also attached is a copy of the plaintiff’s website reflecting the style of clothing they are promoting to the public, marked as Exhibit E and F. Comparatively both brands are clearly

distinguishable from each other, and the prime target markets of our products are different. The word "Theory" in as of itself as a branding tool should not be afforded the right to restrict other companies using the word "Theory" in their apparel branding. In our case it is distinguishable such as using the word Tribe in "Tribe Theory" as opposed to just using the word "Theory". Monopolizing the word "Theory" in a restrictive use of our tradename "Tribe Theory" would lead to unfair trade practices, limiting the apparel industries growth and our intellectual capacity to afford options to the public.

We, the company "Swarga Enterprises LLC DBA Tribe Theory" are currently in our proof-of-concept stage marketing through word of mouth and self-advertising through wearing our apparel. We are attempting to generate our sales through platforms such as "Etsy", sample image attached, marked as Exhibit E. Our apparel is sold as made to order from our current styles created or custom orders based on the client preferences. We do not carry bulk stock of finished goods. The future potential and our hopeful expectation of our company is to change our filing status to a non-for-profit to serve our communities, being that of the true beneficiaries.

In summation I would like to contend that there is no dilution here at hand, Non-Infringement as there is no likely hood of confusion, the plaintiff does not display any trademarks on their apparel, there is evident commercial weakness in the claimant's name as using the word "Theory" as an all-inclusive entitlement without an descriptive basis in distinguishing their brand from others besides there mere justification that "Theory" is used in their tradename, and our mark creates a distinct commercial impression on overall average consumer that is looking for a specific type of fashion apparel that would reflect their personal style and beliefs.

The plaintiff's notice of opposition appears to be a presumptive rebuttal without out merit or proof. We urge that the onus of this presumption falls on the plaintiffs to prove in fact that there is a "likelihood of Confusion" and that their argument holds a sense of validity in our industry.

In conclusion I am requesting the notice of opposition to be dismissed. Also, if permissible to be reimbursed any court cost by the plaintiff incurred with my protest to the notice of opposition.

We hope this letter will justify our basis for protest.

Please advise if any further information or supporting documentation is required.

I hereby affirm the truth of my statements indicated in this letter. My affirmation is concluded with my name, title, company and signature below.

Thank you for your time and attention to this matter.

Swarga Enterprises LLC Dba Tribe Theory

Saju Damodaran

Saju Damodaran, Managing Member

(T)917-301-7990 (E) Saju.Damodaran@gmail.com



A TRIBE WITH
DEEPLY ROOTED TIES
HAS THE
PERSEVERENCE
TO BRANCH OUT
AND REACH
HUMANITY.

AS THE TREE GROWS,
LOVE GROWS.



TRIBE



THEORY

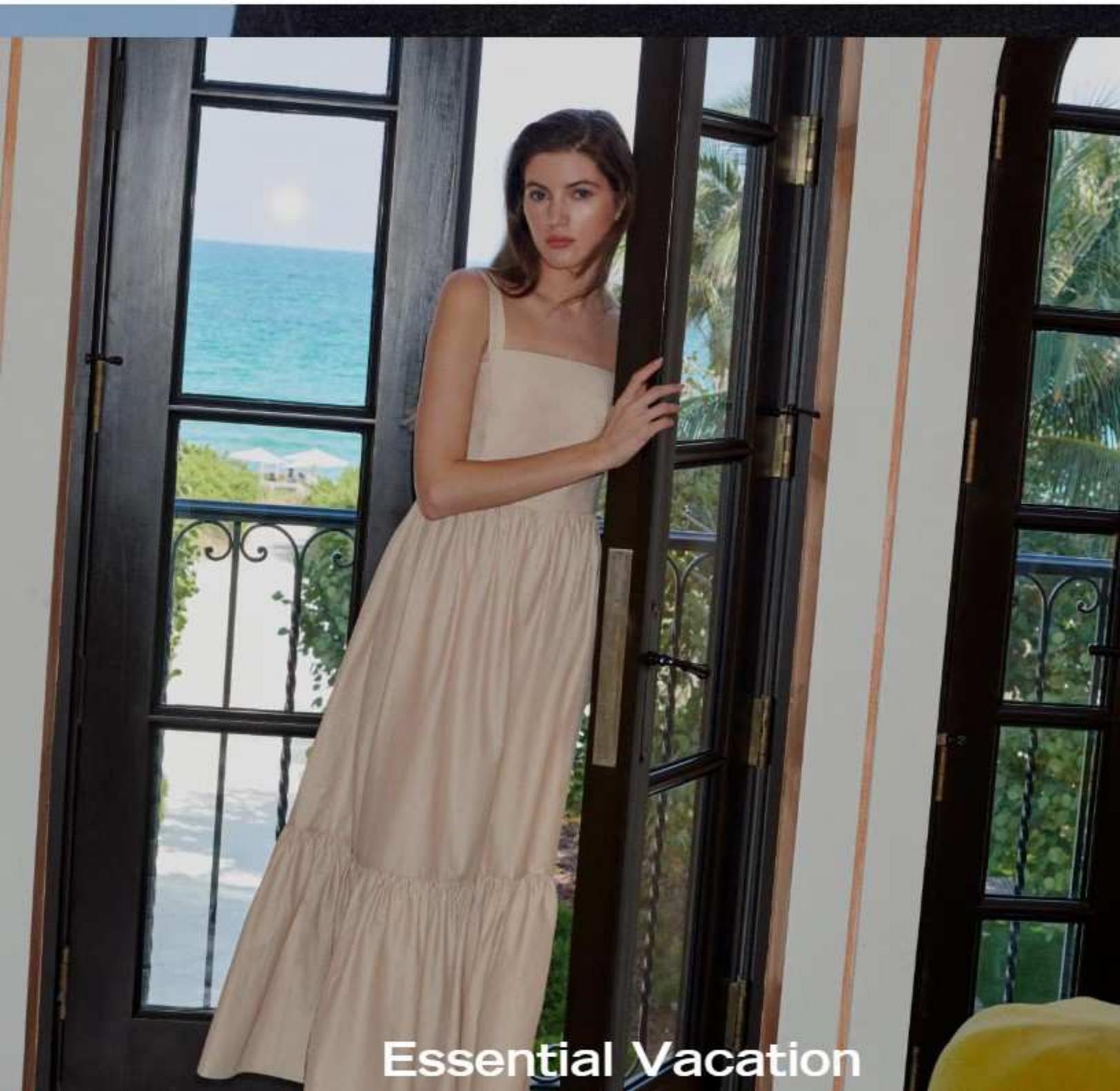


"A NATION'S CULTURE
RESIDES IN THE HEARTS
AND SOUL OF ITS PEOPLE."



"MY LIFE IS MY MESSAGE."

MAHATMA GHANDI



Essential Vacation



