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

Proceeding no.	91293396
Party	Defendant Fam Petcare LLC
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Submission	Answer
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Date	09/17/2024
Attachments	Kismet Pet Foods Opposition Answer.pdf(116856 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Starform Solution, LLC,)	
)	
Opposer,)	
)	
v.)	
)	Ser. Nos. 98/059,294 and 98/059,300
Fam Petcare, LLC,)	Opp. No. 91293396
)	
Applicant.)	

ANSWER

Fam Petcare, LLC (“Applicant”), through its attorneys, hereby answers Starform Solution, LLC’s (“Opposer”) Consolidated Notice of Opposition. Applicant admits that Opposer identifies itself as a Delaware limited liability company with offices at 100 Coliseum Drive, Cohoes, New York 12047. Applicant admits that Opposer requested and was granted a 90-day extension of the original opposition deadline for Serial Nos. 98/059,294 and 98/059,300. With respect to the rest of the preamble of the Consolidated Notice of Opposition, Applicant denies that Opposer is being damaged or will be damaged by the registration of Serial Nos. 98/059,294 and 98/059,300 in the United States Patent and Trademark Office (“USPTO”).

1. Applicant admits that Opposer has filed an intent to use application (Serial No. 97/277,747) under Section 1(b) of the Trademark Act to register the mark KISSMUTT for use with “Dietary supplements for pets; Dietary pet supplements in the form of pet treats; Vitamins for pets; Nutritional supplements for pets; Dietary pet supplements for improved pet breath” in Class 5.

2. Applicant admits that Opposer filed the KISSMUTT application on February 22, 2022. Applicant is without information sufficient to admit or deny the remaining allegations in Paragraph 2 of the Consolidated Notice of Opposition and, therefore, denies the same.

3. The USPTO published the KISSMUTT application on January 17, 2023 and issued a Notice of Allowance for the application on March 14, 2023. The final Statement of Use deadline for the KISSMUTT would be March 14, 2026 if Opposer requests all of the five six-month extensions to which it is entitled. Applicant denies the remaining allegations in Paragraph 3 of the Consolidated Notice of Opposition. Opposer has requested and been granted three Statement of Use extensions and not two, as alleged in the Consolidated Notice of Opposition.

4. Applicant filed Serial Nos. 98/059,294 and 98/059,300 for the KISMET PET FOODS marks on June 26, 2023. Applicant filed the applications on an intent to use basis under Section 1(b) of the Trademark Act. The USPTO published both applications without raising any issues with the applications or issuing any Office Actions against the applications.

5. Applicant denies the allegations in Paragraph 5 of the Consolidated Notice of Opposition.

6. Applicant denies the allegations in Paragraph 6 of the Consolidated Notice of Opposition.

7. Paragraph 7 sets forth allegations that present legal conclusions and questions of law and therefore no answer is required. To the extent an answer is required, Applicant denies the allegations of this paragraph of the Consolidated Notice of Opposition.

8. Applicant denies the allegations in Paragraph 8 of the Consolidated Notice of Opposition.

9. Applicant denies that Opposer is entitled to the relief for which it prays in the Consolidated Notice of Opposition. WHEREFORE, Applicant prays that the Consolidated Notice of Opposition be dismissed with prejudice.

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Affirmative Defenses

First Affirmative Defense

The KISSMUTT and KISMET PET FOODS marks are not confusingly similar, differing in sound, meaning, appearance, and overall commercial impression.

Second Affirmative Defense

The USPTO did not find the KISMET PET FOODS mark confusingly similar to the KISSMUTT mark during the *ex parte* examinations of the KISMET PET FOODS applications.

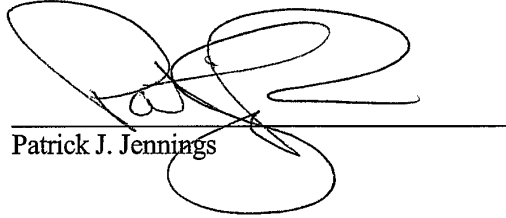
Respectfully submitted,

/Pat Jennings/

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer has been served Eric J. Shimanoff by forwarding said copy on September 17, 2024, via email, to ej@cll.com.



Patrick J. Jennings