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

Proceeding	91241363
Party	Defendant The Baked Bear
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Submission	Answer
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Date	07/02/2018
Attachments	ANSWER TO NOTICE OF OPPOSITION.pdf(467347 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MONSTER ENERGY COMPANY)	
)	Opposition No.: 91241363
Opposer,)	
)	Serial No.: 87237126
v.)	
)	Mark:
THE BAKED BEAR,)	COOKIE MONSTERS ONLY
)	
Applicant.)	
_____)	

ANSWER TO NOTICE OF OPPOSITION

The following is the Answer of The Baked Bear (“Applicant”), applicant of U.S. Trademark Application No. 87237126 (the “Application”) for the mark COOKIE MONSTERS ONLY (“Applicant’s Mark”), by and through Counsel, JSK LAW, PLLC, to the Notice of Opposition filed by Monster Energy Company, (hereinafter “Opposer”).

1. Admitted.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 2 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 3 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 4 of the Notice of Opposition. Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny.
5. Denied.
6. Applicant is without knowledge or information sufficient to form a belief as to the truth of claims contained in the first part of paragraph 6; namely, "Opposer's common law rights." Since Applicant can neither admit nor deny the paragraph as written, Applicant must deny. Admitted as to Opposer's ownership of U.S. Trademark Registration No. 5,114,854.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. Admitted.
12. Admitted.
13. Admitted.
14. Admitted.
15. Admitted.
16. Admitted.
17. Admitted.
18. Admitted.
19. Admitted.
20. Admitted.
21. Admitted.
22. Admitted.

23. Admitted.
24. Admitted.
25. Admitted.
26. Admitted.
27. Admitted.
28. Admitted.
29. Admitted.
30. Admitted.
31. Denied, as Applicant is without knowledge or information sufficient to form a belief as to the validity of Opposer's cited marks or registrations thereof; or Opposer's ownership of Opposer's cited marks.
32. Denied, as Applicant is without knowledge or information sufficient to form a belief as to the validity of Opposer's cited marks or registrations thereof; Opposer's ownership of Opposer's cited marks; or Opposer's exclusive right to use the registered marks in commerce.
33. Applicant is without knowledge or information sufficient to form a belief as to the truth of the claims made in the first part of paragraph 33 of the Notice of Opposition. Since Applicant cannot admit nor deny the claims made by Opposer in the first part of paragraph 33, Applicant must deny. Applicant denies all claims and inferences in the second part of paragraph 33; namely, that "some" of Opposer's marks were well established and famous long before Applicant's filing date and alleged first use of Applicant's Mark.
34. Admitted.
35. Denied.
36. Denied.

FURTHERMORE, Applicant sets forth the following affirmative defenses in support of its position:

37. Applicant's Mark is unique and distinctive.
38. The wording in Applicant's Mark and Opposer's marks are different.
39. Applicant's Mark is different in spelling and pronunciation.
40. Applicant's Mark and Opposer's marks create different commercial impressions.
41. Opposer's Marks contain numerous words and/or features not present in Applicant's Mark.
42. Applicant's Mark contains the word "COOKIE" not present in any of Opposer's marks.
43. Applicant's Mark contains the word "ONLY" not present in any of Opposer's marks.
44. Applicant's Mark contains the word "MONSTERS" not present in any of Opposer's marks.
45. "MONSTER" – the singular use of Applicant's word "MONSTERS" is the only commonality between Applicant's Mark and Opposer's marks. "MONSTER" is a generic word.
46. "MONSTER" is registered in numerous trademarks not owned by Petitioner.
47. "MONSTER" is used in commerce by third parties as part of numerous trademarks not owned by Opposer.
48. Applicant's Mark and Opposer's marks are not likely to cause confusion, mistake or deception to purchasers as to the source of Applicant's goods or services.

WHEREFORE, Applicant respectfully requests that the Trademark Trial and Appeal Board deny the Opposer's opposition and allow the continued registration of U.S. Trademark Application No. 87237126.

Dated this 2nd day of July, 2018.

By: /Jeffrey S. Knoll/

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