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Filing date: **11/02/2020**

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

Proceeding	91265609
Party	Defendant Vaitkunas, Mindaugas
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Submission	Answer
Filer's Name	Richard S. Finkelstein
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Date	11/02/2020
Attachments	Grand_Duke_Answer_To_Opposition.pdf(109504 bytes)

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

In the matter of:

Opposition No.: 91265609
Mark: GRAND DUKE and design, Serial No. 88766513

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Duke University,)
)
Opposer,)
)
v.)
)
Mindaugas Vaitkunas,)
)
Applicant.)
<hr/>	

Commissioner for Trademarks
P.O. Box 1451
Arlington, VA 22313-1451

AFFIRMATIVE DEFENSES AND ANSWER TO OPPOSITION

Applicant Mr. Mindaugas Vaitkunas (“Applicant”), through counsel, hereby responds to the Notice of Opposition brought by Opposer Duke University (“DUKE” or “Opposer”) to prevent registration of Applicant’s mark, GRAND DUKE and design, by first interposing the following affirmative defenses:

First Affirmative Defense

DUKE fails to state a claim upon which relief can be granted.

Second Affirmative Defense

Applicant denies there is any likelihood of confusion of DUKE’s marks with respect to its mark and goods as set forth in its application.

Third Affirmative Defense

Some or all of DUKE's claims are barred by the equitable doctrines of waiver, laches, acquiescence, estoppel or unclean hands. Applicant is harmed by Opposer's litigation tactics wherein Opposer attempts to enforce its alleged trademark rights beyond a reasonable interpretation of the scope of the rights legitimately granted to the trademark owner.

WHEREFORE, by reason of one or more of the defenses set forth hereinabove, Applicant requests judgment against DUKE, requests Applicant's application for registration be granted, and requests Applicant's mark be allowed and eventually registered on the Principle Register.

Answer

Applicant states as follows in answer to the numbered paragraphs of DUKE's Opposition:

1. Applicant admits that DUKE is a university but has insufficient information to admit or deny the remaining allegations contained in Paragraph 1 of DUKE's Opposition and therefore denies same.
2. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 2 of DUKE's Opposition and therefore denies same.
3. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 3 of DUKE's Opposition and therefore denies same.
4. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 4 of DUKE's Opposition and therefore denies same.
5. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 5 of DUKE's Opposition and therefore denies same.

6. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 6 of DUKE's Opposition and therefore denies same.

7. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 7 of DUKE's Opposition and therefore denies same.

8. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 8 of DUKE's Opposition and therefore denies same.

9. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 9 of DUKE's Opposition and therefore denies same.

10. Denied

11. Denied

12. Denied

13. Applicant admits that its filing date for the present intent to use application is January 20, 2020.

14. Applicant admits that it filed an intent to use application for "Bath bombs; Bath oils for cosmetic purposes; Body oil; Cosmetic bath salts; Essential oils; Hair shampoos and conditioners; Herbal extracts sold as components of cosmetics; Non-medicated herbal body care products, namely, body oils, salves, and lip balms; Non-medicated herbal body care products, namely, essential oils and tinctures; Shampoos; Skin and body topical lotions, creams and oils for cosmetic use; Topical herbal extracts for cosmetic purposes" but denies the remaining allegations contained in Paragraph 14 of DUKE's Opposition.

15. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 15 of DUKE's Opposition and therefore denies same.

16. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 16 of DUKE's Opposition and therefore denies same.

17. Denied

18. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 18 of DUKE's Opposition and therefore denies same.

19. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 19 of DUKE's Opposition and therefore denies same.

20. Denied

21. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 21 of DUKE's Opposition and therefore denies same.

22. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 22 of DUKE's Opposition and therefore denies same.

23. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 23 of DUKE's Opposition and therefore denies same.

24. Denied

25. Applicant has insufficient information to admit or deny the allegations contained in Paragraph 25 of DUKE's Opposition and therefore denies same.

26. Applicant admits it is not affiliated with Duke University.

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