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

Proceeding no.	91273677
Party	Defendant Kimsaprincess Inc.
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Submission	Answer
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Date	02/15/2022
Attachments	SKKN Answer to Opposition 91237677.pdf(173380 bytes)

Opposer's purported common law rights, any such rights appear to be narrowly confined to skin facial services offered out of a single location in Brooklyn, New York.

Further, Opposer's rights to the term "skkn" are, at best, confined to the mark that it is attempting to register with the USPTO, which includes stylization, a plus sign, and a logo – none of which appear in any of Applicant's trademark filings—and only for its skin facial services. As the USPTO informed Opposer, its application for "skkn" is merely descriptive as a misspelling of "skin." Opposer is not known as "skkn," nor do the letters "KK" identify Opposer in any way.

At bottom, the Opposition is an attempt by Applicant to overstate its purported trademark rights, and interfere with the registration of Applicant's marks across classes of goods and services for which there could be no likelihood of confusion with Opposer's business. Given Opposer's comments to the press about this matter, it is clear Opposer is trying to get something from Applicant to which it is not entitled.

ANSWER TO OPPOSITION

Applicant, by and through its attorneys of record, responds to the allegations set forth as follows:

1. Applicant admits Opposer operates a single location business in Brooklyn, New York. Applicant is without information sufficient to admit or deny the remaining allegations in Paragraph 1 and therefore denies them.

2. The allegations contained in Paragraph 2 include a legal conclusion concerning Opposer's standing to which no response is required. To the extent a response is required, Applicant is without information sufficient to admit or deny the allegations in Paragraph 2 and therefore denies them.

3. Applicant is without information sufficient to admit or deny the allegations in Paragraph 3 and therefore denies them.

4. Applicant denies that Opposer has ever sold any skin care products identified by the alleged “SKKN+ & Design” mark. Applicant is without information sufficient to admit or deny the remaining allegations in Paragraph 4 and therefore denies them.

5. Applicant is without information sufficient to admit or deny the allegations in Paragraph 5 and therefore denies them. Applicant further responds that Opposer’s “plans” to launch are irrelevant to the extent of its rights in its alleged mark.

6. Applicant denies that Opposer has ever sold any apparel products identified by the alleged “SKKN+ & Design” mark. Applicant is without information sufficient to admit or deny the remaining allegations in Paragraph 6 and therefore denies them.

7. Applicant is without information sufficient to admit or deny the allegations in Paragraph 7 and therefore denies them. Although Applicant expressly reserves the right to object to the images included with this Paragraph on the basis of authenticity, Applicant observes the products allegedly offered in the screenshot are not “SKKN+ & Design” - branded products.

8. Applicant is without information sufficient to admit or deny the allegations in Paragraph 8 and therefore denies them. Applicant further states it expressly reserves the right to object to the image included with this Paragraph on the basis of authenticity.

9. Applicant is without information sufficient to admit or deny the allegations in Paragraph 9 and therefore denies them. Applicant further expressly reserves the right to object to the images included with this Paragraph on the basis of authenticity.

10. Applicant admits only that Opposer filed the referenced Application on March 28, 2021, for the services identified therein in International Class 44. Applicant is without

information sufficient to admit or deny the remaining allegations in Paragraph 10 and therefore denies them.

11. Applicant is without information sufficient to admit or deny the allegations in Paragraph 11 and therefore denies them.

12. Applicant denies Opposer has acquired “exceedingly valuable” goodwill in the asserted mark. Applicant is without information sufficient to admit or deny the remaining allegations in Paragraph 12 and therefore denies them.

13. Applicant denies the allegations in Paragraph 13.

14. Applicant denies the allegations in Paragraph 14.

15. Applicant is without information sufficient to admit or deny the allegations in Paragraph 15 and therefore denies them.

16. Applicant admits the allegations in Paragraph 16.

17. Applicant admits the allegations in Paragraph 17.

18. Applicant admits the allegations in Paragraph 18.

19. Applicant admits the allegations in Paragraph 19.

20. Applicant denies the allegations in Paragraph 20.

21. Applicant denies the allegations in Paragraph 21.

22. Applicant denies the allegations in Paragraph 22.

23. The allegations contained in Paragraph 23 constitute a legal conclusion concerning the “natural expansion” of alleged goods or services to which no response is required. To the extent this Paragraph does not call for a legal conclusion, Applicant denies the allegations in Paragraph 23.

24. The paragraph is incomprehensible as to “sold by many parties who offer

Opposer's skin care salon services." Notwithstanding, Applicant is without information sufficient to admit or deny the allegations in Paragraph 24 and therefore denies them.

25. Applicant admits it has filed several applications for the mark SKKN BY KIM and that it has an application for the mark SKKN that precedes the priority filing date for Opposer's asserted application. Applicant otherwise denies the allegations in Paragraph 25.

26. Applicant admits the allegations in Paragraph 26.

27. Applicant admits the allegations in Paragraph 27.

28. Applicant admits the allegations in Paragraph 28.

29. Applicant admits the allegations in Paragraph 29.

30. Applicant admits the allegations in Paragraph 30.

31. Applicant admits the allegations in Paragraph 31.

32. Applicant admits the allegations in Paragraph 32.

33. The allegations contained in Paragraph 33 constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations in Paragraph 33.

34. The allegations contained in Paragraph 34 are vague and constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations in Paragraph 34.

35. The allegations contained in Paragraph 35 are vague and constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations in Paragraph 35.

36. Applicant is without information sufficient to admit or deny the allegations in Paragraph 36 and therefore denies them.

37. Applicant is without information sufficient to admit or deny the allegations in Paragraph 37 and therefore denies them.

38. The allegations contained in Paragraph 38 are vague and constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies them.

39. The allegations contained in Paragraph 39 are vague and constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant is without information sufficient to admit or deny the allegations in Paragraph 39 and therefore denies them.

40. Applicant is without information sufficient to admit or deny the allegations in Paragraph 40 and therefore denies them.

41. As to Paragraph 41, Applicant admits it is not affiliated or connected with Opposer or its goods, and it is not endorsed or sponsored by Opposer, but denies all remaining allegations inconsistent therewith.

42. As to Paragraph 42, Applicant admits it has not given any control over the nature and quality of its goods that are and/or will be offered under Applicant's mark to Opposer, but denies all remaining allegations inconsistent therewith.

43. Applicant denies the allegations in Paragraph 43.

44. Applicant denies the allegations in Paragraph 44.

45. Applicant denies the allegations in Paragraph 45.

46. Applicant denies the allegations in Paragraph 46.

47. The allegations contained in Paragraph 47 constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations in

Paragraph 47.

48. Applicant admits it received a letter from Opposer's counsel dated July 21, 2021. Applicant notes that one of its outside counsel immediately responded to the letter and had multiple conversations with Opposer's outside counsel. As to the remaining allegations, the letter is a document of independent legal significance and Applicant denies any and all allegations inconsistent therewith.

RESPONSE TO COUNT I: LIKELIHOOD OF CONFUSION

49. Applicant incorporates its responses to Paragraphs 1 through 48 as set forth herein.

50. Applicant admits the allegations of Paragraph 50.

51. As to Paragraph 51, Applicant admits it has not at the time of this Answer filed any statement of use in connection with the opposed applications, but denies all remaining allegations inconsistent therewith.

52. The allegations contained in Paragraph 52 constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations in Paragraph 52.

53. Applicant denies the allegations in Paragraph 53.

54. Applicant denies the allegations in Paragraph 54.

55. The allegations contained in Paragraph 55 constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations in Paragraph 55.

56. The allegations contained in Paragraph 56 constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations in

Paragraph 56.

57. As to Paragraph 57, Applicant admits it does not need Opposer's consent to register or use Applicant's mark in connection with its goods and services, and denies all remaining allegations inconsistent therewith.

58. Applicant denies the allegations in Paragraph 58.

59. The allegations contained in Paragraph 59 constitute a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations in Paragraph 59.

60. Applicant denies the allegations in Paragraph 60.

61. Applicant denies the allegations in Paragraph 61.

62. Applicant denies the allegations in Paragraph 62.

AFFIRMATIVE DEFENSES

Without assuming any burden of proof that Applicant would not otherwise bear under applicable law, Applicant asserts the following affirmative defense and reserves any right to amend its Answer as additional information becomes available:

1. The Complaint is barred for failure to state a claim for which relief can be granted. Specifically, Opposer fails to allege sufficient facts, rather than conclusory or bare allegations, that establish its prior use in interstate commerce of its purported "SKKN+ & Design" mark, including for goods and services that overlap with those in the challenged applications. Opposer's allegations reference unspecific beauty and salon services provided only in Brooklyn New York, depict social media use that does not constitute use in commerce, and show beauty products identified not by Opposer's marks, but by marks belonging to others. Without allegations sufficient to allege priority, Opposer has failed to state a claim which can

afford the requested relief.

WHEREFORE, Applicant prays the Board deny the Notice of Opposition with prejudice, together with whatever other relief the Board may deem appropriate.

Dated: February 15, 2022.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2022, this Answer was served via email, on counsel for Opposer at the following address:

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/s/ Ashley B. Moretto
An Employee of Dickinson Wright PLLC