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

Proceeding	91255707
Party	Defendant Apple Inc.
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Date	06/16/2020
Attachments	Answer to Notice of Opposition.pdf(104990 bytes)

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

GANG CAO,

Opposer,

v.

APPLE INC.,

Applicant.

Opposition No. 91255707

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO NOTICE OF OPPOSITION

Applicant Apple Inc. (“Apple” or “Applicant”) hereby submits its Answer in response to the Notice of Opposition (the “Notice”) filed by Gang Cao (“Opposer”).

1. Applicant admits that a Mr. Gang Cao is listed as the registrant for the domain names LIVEPHOTO.COM and LIVEPHOTO.CA and that Mr. Cao produced documents in Opposition Proceeding No. 91239006 suggesting that he purchased these domain names in 2011, but denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 1 of the Notice of Opposition, and therefore denies the same.

2. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 2 of the Notice of Opposition, and therefore denies the same.

3. To the extent Paragraph 3 of the Notice of Opposition refers to Applicant’s August 22, 2017 application bearing U.S. Serial No. 87/579,714 (the “Application”) to register

the stylized LIVEPHOTOSKIT mark (“Applicant’s Mark”) with the U.S. Patent and Trademark Office (the “USPTO”), Applicant admits that it filed the Application, which speaks for itself.

4. Applicant states that the allegations set forth in Paragraph 4 of the Notice of Opposition consist of legal conclusions to which no response is required, but to the extent any response is required, denies the same.

5. Applicant states that the allegations set forth in Paragraph 5 of the Notice of Opposition consist of legal conclusions to which no response is required, but to the extent any response is required, denies the same, except admits that TMEP Section 1209.01(c)(i) states that a mark is generic “if its primary significance to the relevant public is the class or category of goods or services on or in connection with which it is used.”

6. Applicant states that the allegations set forth in Paragraph 6 of the Notice of Opposition consist of legal conclusions to which no response is required, but to the extent any response is required, denies the same. Applicant further states that the relevant purchasing public does not understand Applicant’s Mark primarily to be the common or class name for the goods and services described in the Application—that “Live photos” and “kit” are not widely used generically to identify a key aspect or part of the genus of goods or services identified in the opposed Application—and further states that Applicant’s Mark denotes a unique source of such goods and services.

7. Applicant states that the allegations set forth in Paragraph 7 of the Notice of Opposition consist of legal conclusions to which no response is required, but to the extent any response is required, denies the same.

8. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 8 of the Notice of Opposition, and therefore denies the same,

except admits that the document annexed as Exhibit 1 to the Notice of Opposition purports to consist of a March 29, 2015 posting on analogindex.com/review/philips-xenium-i908-review-solid-build-good-camera-but-also-high-temperature-and-long-charge-video-_217136.html, but denies knowledge or information sufficient to form a belief as to the authenticity or accuracy of the document annexed as Exhibit 1 to the Notice of Opposition.

9. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 9 of the Notice of Opposition, and therefore denies the same, except admits that the document annexed as Exhibit 2 to the Notice of Opposition purports to consist of a January 2015 posting on <https://phonesword.blogspot.com/2016/01/BlackBerry-Priv-WITH-5.4-INCH-DISPLAY.html>, but denies knowledge or information sufficient to form a belief as to the authenticity or accuracy of the document annexed as Exhibit 2 to the Notice of Opposition.

10. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 10 of the Notice of Opposition, and therefore denies the same, except admits that the document annexed as Exhibit 3 to the Notice of Opposition purports to consist of a May 2015 posting on androidbigz.blogspot.com/2015/05/specification-lenovo-p70.html, but denies knowledge or information sufficient to form a belief as to the authenticity or accuracy of the document annexed as Exhibit 3 to the Notice of Opposition.

11. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 11 of the Notice of Opposition, and therefore denies the same, except admits that the document annexed as Exhibit 4 to the Notice of Opposition purports to consist of an August 6, 2014 posting on https://www.gsmarena.com/htc_desire_616_dual_sim-

review-1111p8.php, but denies knowledge or information sufficient to form a belief as to the authenticity or accuracy of the document annexed as Exhibit 4 to the Notice of Opposition.

12. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 12 of the Notice of Opposition, and therefore denies the same, except admits that the document annexed as Exhibit 5 to the Notice of Opposition purports to consist of a February 22, 2015 posting on <https://www.gadgetdiary.com/htc-desire-526g-review-affordable-quality-device.html>, but denies knowledge or information sufficient to form a belief as to the authenticity or accuracy of the document annexed as Exhibit 5 to the Notice of Opposition.

13. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 13 of the Notice of Opposition, and therefore denies the same, except admits that the document annexed as Exhibit 6 to the Notice of Opposition purports to consist of a February 24, 2015 posting on <https://gavinsgadgets.com/2015/02/24/honor-holly-review-part-2/>, but denies knowledge or information sufficient to form a belief as to the authenticity or accuracy of the document annexed as Exhibit 6 to the Notice of Opposition.

14. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 14 of the Notice of Opposition, and therefore denies the same, except admits that the document annexed as Exhibit 7 to the Notice of Opposition purports to consist of a June 16, 2014 posting on <https://www.notebookcheck.net/Lenovo-Tab-A8-Tablet-Review.118596.0.html>, but denies knowledge or information sufficient to form a belief as to the authenticity or accuracy of the document annexed as Exhibit 7 to the Notice of Opposition.

15. Applicant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph 15 of the Notice of Opposition, and therefore denies the same,

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