

ESTTA Tracking number: **ESTTA1600676**Filing date: **10/19/2026 06:09:15 PM**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91283402
Party	Plaintiff Marshall B. Mathers III
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Submission	Summary judgment motions Motion for partial summary judgment
Additional Details	Question: Have you served your initial disclosures in accordance with Trade-mark Rule 2.120(a); OR is the cross motion for summary judgment based on claim preclusion, issue preclusion, or lack of jurisdiction? Response: Yes
Certificate of service	Method of service: Email I hereby certify that a true and complete copy of Motion for partial summary judgment has been served on 10/19/2026 by delivering a copy to Andrea Hence Evans by email at Andrea.Evans@evansiplaw.com.
Filer's name	Douglas Panzer
Filer's email	dpanzer@rccblaw.com
Signature	/Douglas Panzer/
Date	10/19/2026
Attachments	Memorandum ISO MSJ of Lack of Bona Fide Intent.pdf (Motions 307 KB 17 pages) Description: Motion for partial summary judgment of Lack of Bona Fide Intent to Use ExA_Applicants_Interrogatory_Resp.pdf (Exhibit 131 KB 11 pages) Description: Exhibit A - Applicants's Responses to Opposer's First Set of Interrogatories ExB_Applicants_RFP_Resp.pdf (Exhibit 105 KB 14 pages) Description: Exhibit B - Applicants's Responses to Opposer's First Set of Requests for Production ExC_Dixon_Dep.pdf (Exhibit 37 KB 5 pages) Description: Exhibit C-Excerpts of Deposition Transcript of Robyn Dixon (July 24, 2023) ExD_Reasonably_Shady_TSDR.pdf (Exhibit 64 KB 6 pages) Description: Exhibit D-TSDR Record for Application Serial No. 97/248,176

	ExE_TTAB_Order47.pdf (Exhibit 139 KB 8 pages) Description: Exhibit E-Board Order Granting Motion to Amend-47 TTABVUE ExF_Bryant_Dec.pdf (Exhibit 67 KB 7 pages) Description: Exhibit F-Declaration of Gizelle Bryant (Sept. 2026) ExG_Dixon_Dec.pdf (Exhibit 91 KB 8 pages) Description: Exhibit G-Declaration of Robyn Dixon (Sept. 2026) Declaration of Douglas Panzer ISO MSJ on Lack of Bona Fide Intent.pdf (Exhibit 159 KB 5 pages) Description: Declaration of Douglas Panzer ISO Motion for Summary Judgment
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MARSHALL MATHERS III,

Opposer,

v.

**ROBYN DIXON, INDIVIDUAL;
GIZELLE BRYANT, INDIVIDUAL,**

Applicants.

Opposition No. 91283402

Serial No. 97248176
Mark: REASONABLY SHADY

**MEMORANDUM OF LAW IN SUPPORT OF OPPOSER’S
MOTION FOR SUMMARY JUDGMENT ON CLAIM OF
LACK OF BONA FIDE INTENT TO USE**

PRELIMINARY STATEMENT

Opposer Marshall B. Mathers III (“Opposer” or “Mr. Mathers”), professionally known as “Eminem” and “Slim Shady,” respectfully submits this Memorandum of Law in support of his Motion for Summary Judgment on his claim that Applicants Robyn Dixon (“Ms. Dixon”) and Gizelle Bryant (“Ms. Bryant”) (collectively, “Applicants”) lacked a bona fide intent to use the mark REASONABLY SHADY on the goods identified in International Class 3 (eye-shadow; lip gloss; make-up) and International Class 4 (candles) at the time they filed Application Serial No. 97/248,176 (the “Application”) on February 1, 2022.

This motion should be granted because the undisputed record establishes that Applicants had no bona fide intent to use the REASONABLY SHADY mark on Class 3 or Class 4 goods as of the filing date—having produced no evidence whatsoever to the contrary, despite having had more than three years of discovery in which to do so.

The absence of evidence is unequivocal. Over the course of nearly three and a half years of discovery, Applicants have failed to produce a single document—not a business plan, not a manufacturer’s agreement, not a pricing sheet, not a marketing strategy, not a mockup of packaging, not a consumer research study, not a single piece of correspondence—evidencing any plan or intention to develop, produce, market, sell, or offer for sale eye-shadow, lip gloss, make-up, or candles under the REASONABLY SHADY mark. Applicant Dixon’s own sworn deposition testimony is dispositive: when asked directly about plans to use the mark for these goods, she

testified, “as far as the candles or the eye shadow, lip gloss, makeup, we don’t have any current plans for that, nothing in the foreseeable future.” [Ex. C, Dixon Dep. at 46:3–12.]

Under the well-established legal framework of *M.Z. Berger & Co. v. Swatch AG*, 787 F.3d 1368, 114 USPQ2d 1892 (Fed. Cir. 2015), and *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503 (TTAB 1993), the complete absence of documentary evidence regarding an applicant’s bona fide intent to use a mark in commerce establishes a prima facie case that the applicant lacks such intent. That showing has been made here—and Applicants have failed to rebut it with any evidence creating a genuine issue of material fact.

Accordingly, Opposer respectfully requests that the Board grant summary judgment on Count III of the Second Amended Notice of Opposition, 43 TTABVUE, Ex. A, and refuse registration of the Application with respect to the goods in International Classes 3 and 4.

STATEMENT OF UNDISPUTED MATERIAL FACTS

1. On February 1, 2022, Applicants filed Application Serial No. 97/248,176, to register the mark REASONABLY SHADY on the Principal Register on an intent-to-use basis under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), for, *inter alia*, the following goods: “Eye-shadow; Lip gloss; Make-up” in International Class 3 and “Candles” in International Class 4. [Ex. D.]
2. Opposer filed a Notice of Opposition against the Application on February 14, 2023, 1 TTABVUE, and an Amended Notice of Opposition on February 21, 2023. 4 TTABVUE.
3. Discovery opened on April 26, 2023. 5 TTABVUE.
4. On October 20, 2023, Applicants served responses to Opposer’s First Set of Interrogatories and First Set of Requests for Production of Documents. [Ex. A; Ex. B., respectively.]
5. In response to Interrogatory No. 1, which requested the date of first use of the mark for each good and service in the Application, Applicants identified dates of use only for “hoodies” (October 3, 2021) and “podcasts” (May 24, 2021). **Applicants disclosed no date of first use for any Class 3 or Class 4 good.** [Ex. A.]
6. In response to Interrogatory No. 2, which requested information about pricing, channels of trade, and geographic areas, Applicants identified pricing only for hats (\$32), shirts/tops (\$22–\$48), mugs (\$14), and autographed paddles (\$32). **Applicants disclosed no pricing, sales channels, or geographic data for any Class 3 or Class 4 good.** [Ex. A.]
7. In response to Interrogatory No. 3, which requested information about marketing and advertising, Applicants stated that their marketing consisted of Instagram pages and word of mouth during podcasts. **Applicants identified no marketing plans or advertising for any Class 3 or Class 4 good.** [Ex. A.]

8. In response to Interrogatory No. 5, Applicants stated they had not licensed the REASONABLY SHADY mark to any third party for any goods or services. [Ex. A.]
9. In response to Interrogatory No. 6, which requested documents and facts regarding the selection of the mark for each class of goods and services, Applicants stated: “*No such documents or facts exist.*” [Ex. A.]
10. In response to Interrogatory No. 9, which requested a description of any packaging bearing the REASONABLY SHADY mark, used in connection with any goods, Applicants stated: “*No such packaging exists.*” [Ex. A.]
11. In response to Interrogatory No. 12, Applicants admitted they had not conducted any trademark search or investigation before filing the Application. [Ex. A.]
12. In response to Interrogatory No. 15, Applicants stated they were “not aware” of the ages, income levels, educational levels, or gender of purchasers of any goods or services bearing the REASONABLY SHADY mark. [Ex. A.]
13. In response to Request for Production (“RFP”) Nos. 4 (goods sold or intended to be sold), 5 (pricing), 6 (first use dates), and 7 (marketing/advertising), **Applicants produced no documents whatsoever relating to Class 3 or Class 4 goods.** [Ex. B.]
14. In response to RFP No. 11 (consumer awareness) and RFP No. 13 (target audience), Applicants stated: “*No such documents exist.*” [Ex. B.]
15. In response to RFP No. 18, which requested documents identifying manufacturers of goods bearing the mark, Applicants objected that the request was irrelevant and stated they “*do not have these documents.*” [Ex. B.]
16. In response to RFP No. 33, which specifically requested all documents evidencing a bona fide intent to use the mark, Applicants stated: “*there are no written documents discussing the concept of bona fide intent.*” The only evidence of “actual use” referenced by Applicants related to podcasts, hoodies, mugs, and wooden paddles—**not to any Class 3 or Class 4 good.** [Ex. B.]
17. On July 24, 2023, Applicant Dixon was deposed. When asked whether she had plans to use the mark for products for which Applicants had not yet used it, Ms. Dixon testified:

Q: “*Do you have plans to use Reasonably Shady for any of the products for which you applied for, but for which you have not yet used the mark Reasonably Shady?*”

A: “*No current plans, but that’s not to say that we would never. But at the moment, we don’t have anything.*”

Q: “*For what services do you have plans?*”

A: “*We don’t have—well, we are attempting to—to do television projects as a derivative of the podcast, but as far as the candles or the eye*

shadow, lip gloss, makeup, we don't have any current plans for that, nothing in the foreseeable future."

[Ex. C, Dixon Dep. at 46:3–12.]

18. On July 17, 2026, Opposer filed a Motion to Amend the Notice of Opposition to add Count III for lack of bona fide intent to use the mark on the Class 3 and Class 4 goods. 43 TTABVUE.
19. On August 17, 2026, the Board granted Opposer's Motion to Amend, finding that "*Opposer did not unduly delay in seeking to amend its notice of opposition*" and that "*there is no evidence that Opposer has acted in bad faith*" and "*there is no convincing evidence of prejudice to Applicants.*" The Board accepted the Second Amended Notice of Opposition and reopened discovery solely for the new claim through September 30, 2026. [Ex. E.; 47 TTABVUE 4]
20. Following the Board's Order, the Board provided Applicants with an additional discovery period of approximately forty-four days, running from August 17, 2026, through September 30, 2026, limited specifically to the newly added claim of lack of bona fide intent to use the REASONABLY SHADY mark on the Class 3 and Class 4 goods. [Ex. E.; 47 TTABVUE 6.]
21. **During the additional discovery period, Applicants produced no new documents of any kind and did not supplement any of their interrogatory responses.** [Decl. of Douglas Panzer ¶¶ 18-19.]
22. The only materials Applicants served during the additional discovery period were two declarations: the Declaration of Gizelle Bryant and the Declaration of Robyn Dixon, each executed in September 2026 (together, the "Declarations"). [Ex. F, Bryant Decl.; Ex. G, Dixon Decl.] No documents were attached to either Declaration.
23. Each Declaration asserts that, before February 1, 2022, Applicants "discussed" offering candles, lip gloss, and eye shadow under the mark, and concedes that those discussions were "informal and oral" and that Applicants did not prepare "formal business plans, meeting minutes, product development reports, or similar written records." [Ex. F, Bryant Decl.; Ex. G, Dixon Decl.]
24. Each Declaration further admits that, as of the filing date, Applicants had not selected any manufacturer or supplier, had not selected final products, had not finalized packaging or pricing, had not finalized product details such as colors or scents, and had not established a launch date; that their plans "were still at an early stage"; and that after filing, Applicants "did not move forward" with the research, sourcing, and product development necessary to launch any candle or make-up product. [Ex. F, Bryant Decl.; Ex. G, Dixon Decl.]
25. The additional discovery period closed on September 30, 2026, without Applicants producing any documentary or other objective evidence of an intent to use the REASONABLY SHADY mark on Class 3 or Class 4 goods. [Ex. E; Decl. of Douglas Panzer ¶¶ 18-22.]

26. On August 27, 2026, Applicants filed their Answer to the Second Amended Notice of Opposition. 48 TTABVue. In that Answer, Applicants admitted they did not produce documents in the categories Opposer identified. *Id.* at ¶ 43. Applicants denied that the absence of documents establishes lack of bona fide intent, but did not identify or produce any new evidence of bona fide intent.
27. As of the date of this motion, no document has been produced or identified in this proceeding—by Applicants or otherwise—that evidences any plan, arrangement, commitment, agreement, business strategy, marketing effort, supplier relationship, manufacturing inquiry, packaging design, product formulation, or any other action taken by Applicants at any time, whether before, on, or after the filing date, to develop, produce, market, sell, or offer for sale eye-shadow, lip gloss, make-up, or candles under the REASONABLY SHADY mark.

LEGAL STANDARD

A. Summary Judgment Standard

Summary judgment is appropriate when “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); *see also* TBMP § 528.01. The moving party bears the initial burden of demonstrating the absence of a genuine dispute of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Once that burden is met, the nonmoving party must “set forth specific facts showing that there is a genuine issue for trial” and may not rest on the mere allegations or denials in its pleadings. Fed. R. Civ. P. 56(e); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

B. Bona Fide Intent to Use Under Section 1(b)

Section 1(b) of the Lanham Act permits the filing of a trademark application based on a “bona fide intention, under circumstances showing the good faith of such person, to use [the] mark in commerce.” 15 U.S.C. § 1051(b)(3)(B). The absence of such bona fide intent is a ground for opposition. *See* 15 U.S.C. § 1063; TBMP § 309.03(d).

The Federal Circuit has held that “[w]hether an applicant had a ‘bona fide intent’ to use the mark in commerce at the time of the application requires objective evidence of intent.” *M.Z. Berger & Co. v. Swatch AG*, 787 F.3d 1368, 114 USPQ2d 1892, 1898 (Fed. Cir. 2015). Although “the evidentiary bar is not high, the circumstances must indicate that the applicant’s intent to use the mark was firm and not merely intent to reserve a right in the mark.” *Id.* The intent must be “demonstrable” and based on “more than a mere subjective belief.” *Id.* In affirming this standard, the Federal Circuit endorsed the Board’s long-standing rule that “the determination of whether an applicant has a bona fide intention to use the mark in commerce is to be a fair, objective determination based on all the circumstances.” *Swiss Grill Ltd. v. Wolf Steel Ltd.*, 115 USPQ2d 2001, 2015 WL 5675642, at *7 (TTAB 2015) (citing *M.Z. Berger*, 114 USPQ2d at 1897–98, and

Lane Ltd. v. Jackson Int’l Trading Co., 33 USPQ2d 1351, 1355 (TTAB 1994)); accord *Boston Red Sox Baseball Club LP v. Sherman*, 88 USPQ2d 1581, 1587 (TTAB 2008). Because the inquiry is objective, an applicant’s “mere statement of subjective intention, without more, would be insufficient to establish applicant’s bona fide intention to use the mark in commerce.” *Lane*, 33 USPQ2d at 1355.

Critically, “[a]bsent other facts which adequately explain or outweigh the failure of an applicant to have any documents supportive of or bearing upon its claimed intent to use its mark in commerce, the *absence* of documentary evidence on the part of an applicant regarding such intent is sufficient” to establish that there was no bona fide intent. *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503, 1507 (TTAB 1993)(emphasis added). This principle has been consistently reaffirmed, including in precedential decisions entering judgment on that basis. See *Honda Motor Co. v. Winkelmann*, 90 USPQ2d 1660, 1662–64 (TTAB 2009) (precedential) (granting opposer’s motion for summary judgment where, even viewing the evidence in the light most favorable to the applicant, there was no documentary evidence of bona fide intent and no facts explaining its absence); *Boston Red Sox*, 88 USPQ2d at 1587 (sustaining opposition for lack of bona fide intent; “[t]he absence of any documentary evidence on the part of an applicant regarding such intent constitutes objective proof sufficient to prove that the applicant lacks a bona fide intention to use its mark in commerce”); *Kelly Services, Inc. v. Creative Harbor, LLC*, 846 F.3d 857, 865 (6th Cir. 2017) (“Without a valid excuse, the ‘absence of any documentary evidence on the part of an applicant regarding [bona fide intent] constitutes objective proof sufficient to prove that the applicant lack[ed] a bona fide intention to use its mark in commerce.’” (quoting *Boston Red Sox*)).

Intent is assessed on a class-by-class and goods-by-goods basis. *G & W Laboratories Inc. v. GW Pharma Ltd.*, 89 USPQ2d 1571, 1573-74 (TTAB 2009). Evidence of actual use on one set of goods does not establish bona fide intent to use the mark on entirely different goods for which no preparations have been made. *Id.* See also *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1101-02, 192 USPQ 24, 28 (CCPA 1976). See also TMEP § 1403.01.

Moreover, the mere filing and prosecution of a trademark application does not itself constitute bona fide intent. *Research in Motion Ltd. v. NBOR Corp.*, 92 USPQ2d 1926, 1930–31 (TTAB 2009) (“If the filing and prosecution of a trademark application constituted a bona fide intent to use a mark, then in effect, lack of a bona fide intent to use would never be a ground for opposition or cancellation.”).

Once the opposer establishes a prima facie case through the absence of documentary evidence, the burden shifts to the applicant to come forward with facts that “adequately explain or outweigh” the failure to provide documentary evidence. *Commodore*, 26 USPQ2d at 1507. Vague assertions of future intent, unsupported by objective evidence, are insufficient to create a genuine issue of material fact. See *Spirits Int’l, B.V. v. S.S. Taris Zeytin Ve Zeytinyagi Tarim Satis Kooperatifleri Birliği*, 99 USPQ2d 1545, 1549 (TTAB 2011); *Honda Motor Co. v. Winkelmann*, 90 USPQ2d 1660, 1662–64 (TTAB 2009).

ARGUMENT

The undisputed record in this proceeding compels a single conclusion: Applicants lacked a bona fide intent to use the mark REASONABLY SHADY on any good in International Class 3 or International Class 4 at the time they filed the Application. The record is barren—not merely thin—of any evidence of such intent. Opposer is entitled to summary judgment as a matter of law.

A. Over Three Years of Discovery Have Yielded No Evidence of Intent to Use the Mark on Class 3 or Class 4 Goods

Discovery in this proceeding opened on April 26, 2023, and has continued, through various resetttings, until the final deadline of September 30, 2026 – a period of nearly three and a half years. During this extensive period, Opposer served comprehensive interrogatories and document requests directed specifically at the goods identified in the Application, including the Class 3 and Class 4 goods at issue here.

Despite this prolonged opportunity, Applicants have produced **zero** evidence of any plan, preparation, or intention to develop, manufacture, market, sell, distribute, or offer for sale eye-shadow, lip gloss, make-up, or candles under the REASONABLY SHADY mark. Specifically:

Interrogatory responses revealed no dates of first use, no pricing, no channels of trade, no geographic data, no marketing plans, no advertising strategies, no licensing agreements, no packaging, and no purchaser demographics relating to any Class 3 or Class 4 good. [Ex. A, Interrogatory Nos. 1, 2, 3, 5, 9, 15.] When asked about the selection of the mark for these goods, Applicants flatly stated: “*No such documents or facts exist.*” [Ex. A, Interrogatory No. 6.] When asked about packaging, Applicants stated: “*No such packaging exists.*” [Ex. A, Interrogatory No. 9.]

Document production requests fared no better. In response to RFP Nos. 4, 5, 6, and 7 – which called for documents regarding goods sold or intended to be sold, pricing, first use dates, and marketing – Applicants produced nothing for Class 3 or Class 4 goods. [Ex. B.] In response to RFP No. 11 (consumer awareness) and RFP No. 13 (target audience), Applicants stated: “*No such documents exist.*” [Ex. B.] In response to RFP No. 18 (manufacturers), Applicants stated they “*do not have these documents.*” [Ex. B.] And when specifically asked to produce all documents evidencing a bona fide intent to use the mark (RFP No. 33), Applicants stated: “*there are no written documents discussing the concept of bona fide intent.*” [Ex. B.]

The rule in *Commodore* addresses precisely this circumstance. When extensive discovery yields no documentary evidence of intent, a prima facie case of lack of bona fide intent is established. *Commodore*, 26 USPQ2d at 1507. Where, as here, the record contains no evidence of bona fide intent even when viewed in the applicant’s favor, the Board enters summary judgment. *Honda*, 90 USPQ2d at 1662–64. Here, the discovery has been not merely extensive in duration but comprehensive in scope—and the absence of evidence is absolute.

B. The Complete Absence of Evidence Spans the Entire Relevant Period

The evidentiary void in this case is not a matter of degree—it is total. No document or testimony in this proceeding evidences any plan, intention, or preparation by Applicants to use the REASONABLY SHADY mark on Class 3 or Class 4 goods at any time—whether before the application filing date of February 1, 2022, on that date, or at any point in the more than four years since.

There are no business plans. No manufacturers’ agreements. No product formulations. No pricing strategies. No marketing proposals. No packaging designs. No labeling concepts. No channels of trade identified. No consumer research. No licensing discussions. No supply chain arrangements. Nothing.

Applicant Dixon’s own sworn deposition testimony confirms the complete absence of any intent. When asked directly about Applicants’ plans to use the mark on the goods for which they had not yet used it, Ms. Dixon testified: “*as far as the candles or the eye shadow, lip gloss, makeup, we don’t have any current plans for that, nothing in the foreseeable future.*” [Ex. C, Dixon Dep. at 46:3–12.] This testimony, coming approximately eighteen months after the application was filed, is a candid admission that Applicants had no firm intent—and no plans whatsoever—to use the mark on Class 3 or Class 4 goods.

This admission is strikingly similar to the deposition testimony the Board has found dispositive in other summary judgment proceedings on bona fide intent. *See Snap Inc. v. Enviropedia, Inc.*, Opp. No. 91242413, at *18–21 (TTAB March 28, 2025) (non-precedential) (granting summary judgment where applicant’s CEO testified with respect to use of the mark on particular products: “we’re really just thinking about it”); *see also Rosetta Stone LLC v. Lauren Jemeyson LLC*, Opp. No. 91290354, at *11–13 (TTAB July 8, 2026) (non-precedential) (granting summary judgment where applicant’s discovery responses and deposition “evinced nothing more than a generalized speculative concept of some nebulous good or service, perhaps at some indefinite time in the future”).

The Board in *Rosetta Stone* emphasized that “the strongest documentary proof of bona fide intent to use in commerce will have been created prior to, or at the latest on, the filing date.” *Id.* at *12 (citing *Societe des Produits Nestle S.A. v. Candido Vinulaes Taboada*, Opp. No. 91232597, 2020 WL 4530518, at *16 (TTAB 2020)). Here, Applicants have produced no pre-filing evidence of intent—and, equally telling, no post-filing evidence either.

C. Applicants’ Failure to Supplement Discovery After the Board Reopened It Specifically for the Bona Fide Intent Claim Further Confirms the Absence of Intent

On August 17, 2026, the Board granted Opposer’s Motion to Amend the Notice of Opposition to add Count III for lack of bona fide intent and specifically reopened discovery through September 30, 2026, solely for this new claim. [Ex. E.; 47 TTABVUE.] This was a

targeted opportunity for Applicants to produce any existing evidence supporting their claimed intent to use the mark on Class 3 and Class 4 goods.

Applicants have produced nothing.

During the discovery period set to specifically address the absence of evidence demonstrating Applicants' bona fide intent to use the opposed mark in Class 3 or 4, Applicants produced no supplemental interrogatory responses, made no supplemental document productions, revealed no business plans. They produced no newly discovered evidence of any kind. Applicants served only two uncorroborated Declarations, which, as shown in Section E below, confirm rather than rebut the absence of any firm intent. In the face of a claim directly challenging their bona fide intent, Applicants have offered no objective evidence to rebut the prima facie case established by the complete absence of documentary proof.

Under Federal Rule of Civil Procedure 26(e), parties have a continuing duty to supplement or correct discovery responses when prior responses are "incomplete or incorrect." Applicants' failure to supplement their discovery responses—particularly after the Board put them on explicit notice that their bona fide intent was directly at issue—is powerful evidence that no supplemental evidence exists. *See Kelly Services*, 846 F.3d at 865 ("Without a valid excuse, the 'absence of any documentary evidence on the part of an applicant regarding [bona fide intent] constitutes objective proof sufficient to prove that the applicant lack[ed] a bona fide intention to use its mark in commerce.'").

In their Answer to the Second Amended Notice of Opposition, Applicants admitted they did not produce documents in the categories Opposer identified, but attempted to assert that "[w]hether an applicant possessed bona fide intent is determined from the totality of the relevant circumstances as of the application filing date." 48 TTABVue 5-6 (¶ 46). This bare legal assertion, without any supporting facts or evidence, is precisely the kind of conclusory statement that cannot defeat a properly supported summary judgment motion. *See Anderson v. Liberty Lobby*, 477 U.S. at 248 (nonmoving party must "set forth specific facts"); *see also CFA Institute v. Brickwork Finance Academy*, Opp. No. 91233906, at *12 (TTAB March 27, 2019) (non-precedential) (granting summary judgment where applicant "has not submitted evidence that counters [the prima facie] case, or that explains its failure to provide documentary evidence").

D. The Established Legal Framework Compels Summary Judgment

The legal standard for adjudicating lack of bona fide intent to use on summary judgment is well established and is directly applicable here.

1. The Absence of Documentary Evidence Establishes a Prima Facie Case

Under *Commodore Electronics*, the "absence of documentary evidence on the part of an applicant regarding [its bona fide] intent is sufficient" to prove that the applicant lacked a bona fide intention to use the mark. 26 USPQ2d at 1507. This principle has been applied repeatedly by the Board in granting summary judgment on bona fide intent claims. *See, e.g., Volvo Trademark*

Holding AB v. CKL Holdings N.V., Opp. No. 91241032, at *8–9 (TTAB May 26, 2020) (non-precedential); *Snap Inc. v. Enviropedia*, at *15–16; *Rosetta Stone v. Jemeyson*, at *9–10; *CFA Institute v. Brickwork*, at *11–12.

In *Volvo*, supra, the Board granted summary judgment where the applicant admitted in response to requests for admission that it “has no documents that evidence [its] bona fide intent” and its only defense was that it had spent \$20,000 on trademark prosecution and planned to develop the goods after resolving all trademark proceedings. The Board held that filing trademark applications does not establish bona fide intent and that the applicant was “essentially conceding that it filed the involved application to reserve rights.” *Volvo*, at *9.

In *Snap v. Enviropedia*, the Board granted summary judgment as to 22 of 28 opposed applications where the applicant had filed 43 intent-to-use applications based on “brainstorming” about vertical markets, produced only trademark inventories and application filing documents—no business plans, no marketing materials referencing the specific marks—and the applicant’s sole employee testified that use of the marks for a particular class of goods (software) was a “pie in the sky” concept, that the applicant was “really just thinking about it”, and “there ha[d]n’t been any finalization on what [they] would create as a product out of it.” *Snap*, at *18–21. The Board emphasized that “[a]pplicant’s intent must be ‘firm,’ ‘demonstrable’ with ‘objective evidence of intent’ and ‘more than a mere subjective belief.’” *Id.* at *15.

In *Rosetta Stone v. Jemeyson*, the Board granted summary judgment where the applicant responded to document requests by stating “no such documents exist” for pricing, manufacturing, and consumer information; the sole member’s testimony contradicted the application itself; and business plans belatedly produced at summary judgment were excluded under a Rule 37(c)(1) discovery estoppel sanction. The Board held: “The lack of any documentary evidence of Applicant’s intent prior to filing the application suffices as objective proof that Applicant lacks a bona fide intent to use the mark in commerce.” *Rosetta Stone*, at *10.

And in *CFA Institute v. Brickwork*, the Board granted summary judgment on the bona fide intent claim for Class 35 where “the record on summary judgment does not include documentary objective evidence to indicate that Applicant had, as of or contemporaneous with [the filing date], a bona fide intent to use the mark.” *CFA Institute*, at *11. The applicant had “not submitted evidence that counters that case, or that explains its failure to provide documentary evidence.” *Id.* at *12.

2. Bona Fide Intent Must Be Assessed on a Class-by-Class Basis

Applicants may attempt to argue that their use of the REASONABLY SHADY mark on other goods—podcasts, hoodies, mugs, and wooden paddles—somehow establishes bona fide intent for entirely different goods in Classes 3 and 4. This argument fails as a matter of law.

The TTAB has held that the intent-to-use provisions of Section 1(b) “apply on a class-by-class and goods-by-goods basis.” *G & W Laboratories Inc. v. GW Pharma Ltd.*, 89 USPQ2d 1571,

1573-74 (TTAB 2009). *Lane Ltd. v. Jackson International Trading Co.*, 33 USPQ2d 1351, 1355 (TTAB 1994). Evidence of actual use on one set of goods (e.g., entertainment services, apparel) does not, by itself, establish bona fide intent as to entirely different goods (e.g., cosmetics, candles) for which no preparations have been made. *See id.*; *see also Snap*, at *16 (marketing materials that did not reference the specific marks at issue were insufficient).

Podcasting, selling hoodies, and selling cosmetics are fundamentally different commercial activities. They involve entirely different supply chains, manufacturing capabilities, regulatory requirements, distribution channels, and consumer markets. The fact that Applicants have some commercial activity under the mark does not excuse the total absence of evidence relating to Class 3 and Class 4 goods. As the Board held in *Volvo*, an applicant must be shown to be “in the business of, or capable of marketing, the goods identified in its application.” *Volvo*, at *9 (citing *Boston Red Sox Baseball Club LP v. Sherman*, 88 USPQ2d 1581, 1587 (TTAB 2008)). There is no evidence that Applicants are in the business of manufacturing or selling cosmetics or candles, or that they have taken any step toward becoming so.

3. The Filing and Prosecution of the Application Does Not Constitute Bona Fide Intent

To the extent Applicants may contend that the mere filing of the Application evidences bona fide intent, that argument has been squarely rejected. *Research in Motion Ltd. v. NBOR Corp.*, 92 USPQ2d 1926, 1930–31 (TTAB 2009) (“If the filing and prosecution of a trademark application constituted a bona fide intent to use a mark, then in effect, lack of a bona fide intent to use would never be a ground for opposition or cancellation.”); *see also Volvo*, at *9 (same); *Rosetta Stone*, at *11 (“neither the mere filing of an application nor a trademark search is sufficient to establish an applicant’s intent”)(citing *Swatch AG v. M. Z. Berger & Co., Inc.*, No. 91187092, 2013 WL 5655834, at *12 (TTAB 2013); *Swiss Grill Ltd. v. Wolf Street Ltd.*, No. 91206859, 2015 WL 5675642, at *9 (TTAB 2015)).

Similarly, Applicants conducted no trademark search before filing (Ex. A, Interrogatory No. 12), so they cannot rely on even that minimal indicator of intent. *See Rosetta Stone*, at *11 (trademark search alone insufficient); *Swatch AG v. M.Z. Berger & Co.*, at *12 (TTAB 2013) (same).

4. Applicants Cannot Defeat Summary Judgment with Bare Assertions in Pleadings

Applicants’ denial in their Answer that they lacked bona fide intent is insufficient to create a triable issue of fact. *See Anderson v. Liberty Lobby*, 477 U.S. at 248 (nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts” (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986))). Attorney argument is “no substitute for evidence.” *Snap*, at *20. The Board has repeatedly made clear that “[m]ere approval of the application by the examining attorney is insufficient” to establish bona fide intent. *Id.*

Applicants have had every opportunity to come forward with evidence. They were served with targeted interrogatories and document requests. Applicant Dixon was deposed. The Board then granted an additional discovery period of approximately forty-four days, closing September 30, 2026, devoted exclusively to the bona fide intent claim. At every turn, the result has been the same: no objective evidence of intent.

The record here is, demonstrating a lack of bona fide intent, is stronger than in the prior cases where the Board has granted summary judgment. In *Volvo*, the applicant at least pointed to \$20,000 in trademark prosecution expenses. In *Snap*, the applicant had pitch decks (albeit none referencing the specific marks). In *Rosetta Stone*, the applicant at least submitted business plans at summary judgment (though they were excluded on discovery estoppel grounds). Here, Applicants have offered no documents at all – only self-serving Declarations that concede the absence of any written plan or concrete step relating to eye-shadow, lip gloss, make-up, or candles. The case for summary judgment is clear.

E. The Additional Discovery Period Further Confirms Applicants' Lack of Bona Fide Intent

1. A Targeted, Claim-Specific Discovery Period Produced Nothing

After granting Opposer leave to amend the Notice of Opposition, on August 17, 2026, the Board gave Applicants approximately forty-four additional days of discovery, through September 30, 2026, limited to a single question: whether they had a bona fide intent to use REASONABLY SHADY on the Class 3 and Class 4 goods. [Ex. E.] That period was specifically and expressly for Applicants to come forward with whatever objective evidence of intent they possessed. Information relevant to defeating a bona fide intent claim resides with the applicant, and an applicant does not require discovery to develop facts regarding its own intent. *See Worth Collection, Ltd. v. Worth Wearing LLC*, Opp. No. 91221049, 2016 WL 6833490, at *3 (TTAB Aug. 18, 2016); *Red Bull GmbH*, Opp. No. 91208863, 2015 WL 9906322, at *2 (TTAB July 31, 2015) (non-precedential). Applicants nonetheless produced no new documents and did not supplement a single interrogatory response. The discovery period has now closed and no relevant documents exist.

The Board has repeatedly granted summary judgment where an applicant squandered precisely this kind of opportunity. In *doTERRA Holdings, LLC v. Buena Terra Lavender Farm LLC*, Opp. No. 91284554, 2024 WL 5058050, at *10 (TTAB Nov. 26, 2024) (non-precedential), the Board entered judgment because the applicant “ha[d] had opportunities, both in responding to discovery and in responding to the current motion for summary judgment, to provide documentary or other evidence to show any concrete steps taken or plans made to actually use its mark,” yet failed to do so. The Board further noted that discovery had closed and the applicant had neither sought to extend discovery to supplement its document responses nor argued that any documents remained to be produced. *Id.* at *9 n.12. The same is true here, with the added fact that the Board itself opened a dedicated discovery window for this claim and Applicants produced nothing.

2. The Declarations Are Conclusory, Self-Serving, and Uncorroborated

Rather than produce evidence, Applicants submitted two nearly identical Declarations. Neither attaches any documents. Neither identifies a business plan, manufacturer agreement, supplier quotation, pricing research, marketing plan, packaging design, product sample, or any other concrete step toward use. To the contrary, both Declarations affirmatively confirm the absence of all such evidence. [Ex. F, ¶ 7; Ex. G., ¶¶ 6-7] Rather, they claim, in their nearly identical Declarations, to have “contemplated” such offerings. [Ex. F., ¶ 11; Ex. G, ¶ 13.] That is fatal, because a party’s own self-serving, conclusory declaration is not the kind of evidence that creates a genuine dispute of material fact. The Federal Circuit has long held that “[i]n countering a motion for summary judgment, more is required than mere assertions,” and that the nonmovant “must point to an evidentiary conflict created on the record at least by a counterstatement of facts set forth in detail in an affidavit by a knowledgeable affiant.” *Sweats Fashions, Inc. v. Pannill Knitting Co.*, 833 F.2d 1560, 1562–63 (Fed. Cir. 1987); *Octocom Sys. Inc. v. Houston Computer Servs. Inc.*, 918 F.2d 937, 941, 16 USPQ2d 1783, 1786 (Fed. Cir. 1990). The Supreme Court has likewise explained that the object of Rule 56 “is not to replace conclusory allegations of the complaint or answer with conclusory allegations of an affidavit.” *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888 (1990); *see also* Fed. R. Civ. P. 56(c)(4) (declaration must “set out facts that would be admissible in evidence”). The Board applies these principles with particular force to bona fide intent claims, where “factual assertions without evidentiary support are insufficient to defend against a motion for summary judgment,” *Snap*, at *9 (citing *Hornblower & Weeks Inc. v. Hornblower & Weeks Inc.*, Opp. No. 91110043, 2001 WL 1512024, at *8 (TTAB 2001)), and where an applicant’s “statement of intent to use [a] mark, unsupported by evidence of any activities undertaken to actually commence such use, [is] insufficient to stave off summary judgment.” *Id.* at *28 (citing *A&H Sportswear Co. v. Yedor*, Opp. No. 91235843, 2019 WL 1453071, at *5 (TTAB 2019)); *accord Rosetta Stone*, at *13 (the absence of business records strengthens the case against the applicant “particularly when witness testimony is not clean and definite” (citing *Vans, Inc. v. Branded, LLC*, No. 92066859, 2022 WL 3369641, at *7 (TTAB 2022))). Measured against that standard, each of the Declarations’ assertions fails as a matter of law.

First, the Declarations concede that Applicants’ alleged pre-filing “discussions” were “informal and oral” and that Applicants “did not ordinarily prepare formal business plans, meeting minutes, product development reports, or similar written records.” [Ex. F, Bryant Decl.; Ex. G, Dixon Decl.] That is an admission that no documentary evidence exists, not an explanation that “adequately explain[s] or outweigh[s]” its absence. *Commodore*, 26 USPQ2d at 1507. The Board rejected the identical argument in *doTERRA*, where the applicant’s principal declared that her business and marketing plans were “unwritten”; the Board held that “there is no corroboration of these alleged plans” and that the declarant “does not identify any concrete actions, suggesting that Applicant’s plans are nothing more than a mere hope to use the mark in connection with the involved goods and services at some point in the future.” *doTERRA*, 2024 WL 5058050, at *9. Applicants’ small-business explanation fares no better: a small operation still must show *some* objective manifestation of a firm intent, and a declarant’s “very generalized and non-specific

reference to licensing and outsourcing as potential strategies to bring the product to market at an unspecified time in the future” is “woefully deficient.” *Id.* (quoting *L’Oreal S.A. v. Marcon*, 2012 WL 1267956, at *12).

Second, the Declarations admit that, as of the filing date, Applicants had not selected any manufacturer or supplier, had not selected final products, had not finalized packaging, pricing, colors, or scents, and had not set a launch date—their plans were, in their own words, “still at an early stage.” [Ex. F, ¶¶ 15, 17; Ex. G., ¶¶ 13, 20] Contemplating that make-up might someday be obtained from an unidentified “third-party or private label manufacturer,” and that candles might be sourced through a print-on-demand vendor, is the very definition of an intent to reserve a right rather than a “firm” and “demonstrable” intent to use. *M.Z. Berger*, 114 USPQ2d at 1898; *Swiss Grill Ltd. v. Wolf Steel Ltd.*, 115 USPQ2d 2001, 2015 WL 5675642, at *7–8 (TTAB 2015) (precedential). Indeed, the Declarations themselves describe the research, sampling, testing, and sourcing that “would have been necessary” before any such product could reach market—and admit that none of it was ever done. [Ex. F, ¶ 14; Ex. G., ¶ 13]

Third, the Declarations’ central assertion—that each declarant “intended” to use the mark on candles and make-up as of February 1, 2022—is a bare statement of subjective intent, offered by the very parties whose intent is at issue, after the close of fact discovery and in the face of a pending summary judgment threat. Such a statement is precisely the “conclusory allegation[] of an affidavit” that Rule 56 does not credit, *Lujan*, 497 U.S. at 888, and it supplies no “counterstatement of facts set forth in detail” capable of creating an evidentiary conflict, *Octocom*, 918 F.2d at 941. The precedential decisions of the Board are unequivocal that such statements cannot carry Applicants’ burden. In *Swiss Grill*, the Board held that once an opposer shows the absence of documentary evidence, the applicant’s “mere statement of subjective intention, without more, would be insufficient to establish applicant’s bona fide intention to use the mark in commerce,” and characterized the applicant’s vague claims of meetings and events, unconnected to the mark, as “little more than subjective claims of intention, rather than objective evidence.” 2015 WL 5675642, at *8–9 (quoting *Lane*, 33 USPQ2d at 1355). Likewise, in *L.C. Licensing, Inc. v. Berman*, 86 USPQ2d 1883 (TTAB 2008) (precedential), the Board held that “[t]he mere assertion of an intent to use the mark without corroboration of any sort, whether documentary or otherwise, is not likely to provide credible evidence to establish a bona fide intention to use the mark.” *Id.*, 2008 WL 835278, at *10. There, the applicant testified that he intended to use the mark on specified goods but had no documents; the Board found that his testimony “offer[ed] no facts which explain or outweigh the failure of applicant, when he filed the application, to have documents which support his claimed intent.” *Id.* The Declarations here are indistinguishable: they recite the conclusion of intent, but every underlying fact they supply—no manufacturer, no supplier, no product, no price, no packaging, no launch date—cuts against it. A declarant cannot manufacture a triable issue simply by swearing to the ultimate fact in dispute. See *A&H Sportswear*, 2019 WL 1453071, at *5; *Snap*, at *28.

Fourth, the Declarations attribute Applicants’ inaction to changed “business priorities” and to the demands of this litigation. [Ex. F, ¶¶ 23-24; Ex. G., ¶¶ 22-23] But the opposition was not filed until February 14, 2023—more than a year after the Application filing date—and Applicants identify no step taken in that intervening year either. Indeed, the Applicants each state that during that period they “did not move forward with the additional research, sourcing, and product-development work.” *Id.* The Board has squarely held that delay attributable to an opposition “does not create a genuine dispute that Applicant had a bona fide intent to use the mark when it filed the application,” *Volvo*, at *12 (citing *L.C. Licensing*, 86 USPQ2d at 1892), and that an applicant’s “decision to forgo a business model until after the opposition is decided does not explain his failure to have any documents whatsoever at the time the application was filed.” *L.C. Licensing*, 2008 WL 835278, at *10.

Fifth, Ms. Dixon’s attempt to recharacterize her deposition testimony underscores the problem. Her Declaration now asserts that her testimony that Applicants had “no current plans” and “nothing in the foreseeable future” for candles and make-up described only the state of affairs in July 2023. [Ex. G., ¶ 25] Even accepting that gloss, it confirms that within eighteen months of filing Applicants had abandoned any notion of these goods—without ever having taken a single concrete step toward them. An after-the-fact declaration crafted in response to a summary judgment threat, which shifts the narrative without any corroborating document, is exactly the sort of “after-the-fact rationalization[.]” the Board discounted in *Swiss Grill*, where the applicant’s evolving account and “the general lack of documentary support” led the Board to find no bona fide intent. 2015 WL 5675642, at *9–10. Nor does Ms. Dixon’s statement that she consulted counsel about trademark protection before filing help Applicants; neither the filing of an application nor preparatory trademark activity establishes intent. *Swiss Grill*, 2015 WL 5675642, at *9 (“Neither the application itself nor the unproduced trademark search suffice to establish Applicant’s intent.”); *Research in Motion*, 92 USPQ2d at 1931.

Finally, Applicants’ reliance on their existing podcast and merchandise business does not cure the defect. In *Swiss Grill*, the applicant’s sales of other products under a related mark did not establish intent as to the goods at issue, and the Board refused to find intent where “there is no evidence whatsoever that prior to its filing date Applicant ever corresponded with anyone, discussed licensing arrangements with anyone, developed a business plan or took any other steps to offer the [goods] anywhere.” 2015 WL 5675642, at *9. So too here: Applicants’ hoodies and mugs say nothing about cosmetics or candles. And of course, the Applicant’s cannot demonstrate use of the mark – or any related intent – by their identically worded assertions that they “regularly wore and used make-up in connection with events and public appearances.” [Ex. F, ¶ 12; Ex. G, ¶ 12]

In sum, the Declarations do not create a genuine dispute of material fact; they eliminate one. Taken at face value, they establish that Applicants had, at most, informal and undocumented conversations about products they never researched, never sourced, never priced, never packaged, and never pursued. Under *Sweats Fashions*, *Octocom*, and *Lujan*, a nonmovant’s own conclusory,

self-serving declaration cannot defeat a properly supported motion for summary judgment; and under *Swiss Grill, L.C. Licensing*, and *doTERRA*, such uncorroborated statements of subjective intent cannot overcome Opposer's prima facie showing of no bona fide intent. Summary judgment should be granted.

CONCLUSION

For the foregoing reasons, and because the additional, claim-specific discovery period has now closed without Applicants producing a single new document or supplemental interrogatory response—confirming that there is no genuine dispute of material fact—Opposer Marshall B. Mathers III respectfully requests that the Board grant summary judgment in his favor on Count III of the Second Amended Notice of Opposition and find that Applicants Robyn Dixon and Gizelle Bryant lacked a bona fide intent to use the mark REASONABLY SHADY on the goods identified in International Class 3 (eye-shadow; lip gloss; make-up) and International Class 4 (candles) at the time they filed Application Serial No. 97/248,176. Opposer further requests that the Board refuse registration of the Application with respect to the goods in International Classes 3 and 4.

Dated: October 19, 2026

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **MEMORANDUM OF LAW IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT ON CLAIM OF LACK OF BONA FIDE INTENT TO USE**, together with all exhibits thereto, was served on this 19th day of October, 2026, via email, upon counsel for Applicants at the following address:

Andrea H. Evans, Esq.
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Douglas Panzer

EXHIBIT A

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

Marshall B. Mathers III,

Opposer,

Opposition No. 91/283,402

v.

Robyn Dixon and Gizelle Bryant,

Applicants.

APPLICANTS' ROBYN DIXON AND GIZELLE BRYANT'S RESPONSES TO OPPOSER
MARSHALL B. MATHERS III'S FIRST SET OF INTERROGATORIES

Robyn Dixon and Gizelle Bryant ("Applicants") make the following general objections whether or not separately set forth in response to each interrogatory, to each and every instruction, definition and interrogatory made in Marshall B. Mathers III's ("Opposer") First Set of Interrogatories.

1. Applicants object to Opposer's "Instructions" and "Definitions" to the extent they purport to impose obligations inconsistent with, or in excess of Applicants' obligations under the Federal Rules of Civil Procedure and the Trademark Manual of Board Procedure.
2. Applicants object to these interrogatories to the extent they call for information constituting or reflecting attorney-client communications on the grounds of the attorney-client privilege, and to the extent that they call for information constituting or reflecting work product, including, but not limited to the thoughts or mental impressions of Applicants' attorneys in connection with the preparation, prosecution,

- or defense of any claim by or against Applicants, on the ground of the attorney work-product doctrine.
3. Applicants will furnish information which is within the scope of permissible discovery. Applicants object to Opposer's interrogatories that are not reasonably calculated to lead to the discovery of admissible evidence.
 4. These responses are given without conceding the relevancy, materiality, or admissibility of any interrogatory or response or subject matter of any interrogatory or response and are given without prejudice to Applicants' right to object to further discovery of any interrogatory, response, evidence, or proof concerning the subject matter of any interrogatory or response.
 5. As a general matter, Applicants object to Opposer's interrogatories on the grounds that they are overly broad and unduly burdensome.

RESPONSES

1. Identify the first use date(s) of the REASONABLY SHADY mark and any formative mark in connection with each good or service with which Applicants have used the mark.

Response

October 3, 2021 in connection with hoodies for sale online.

May 24, 2021 in connection with providing podcasts in the field of dating, relationships, marriage, entrepreneurs, motherhood, style, glam, and current events.

2. Identify the retail price of each good and/or service sold or offered for sale under the REASONABLY SHADY mark, all sales channels used to sell or offer for sale such goods and/or services, including the percentage of total sales of goods and/or services through each such channel, and the state or geographic region where each good and/or service has been and/or is expected to be sold and/or advertised.

Response

Applicants object to this Interrogatory as being overburdensome for them to indicate all sales channels used to sell or offer for sale their goods or services, and is also impossible to identify where products and services will be sold in the future. Notwithstanding the above objections, hats are offered for sale at \$32, shirts and tops sell from \$22 to \$48, mugs sell for \$14, and autographed paddles sell for \$32.

Applicant's podcast can be reached on the website www.reasonablyshady.com, and at in-person events, such as BravoCon in October 2023. There is no data available regarding total sales of goods for each channel, and there is no limitation as to the geographic region where consumers can purchase Applicant's products and access Applicant's services.

3. Identify all means used to market, advertise, and/or promote goods and/or services under the REASONABLY SHADY mark from their first offering for sale through present, including, without limitation, the names of digital media, newspapers, magazines, trade journals, or periodicals in which Applicants have advertised and/or intend to advertise its goods and/or services under the REASONABLY SHADY mark, all digital keywords and hashtags used in connection with such efforts, and the dollar amount spent on all such efforts.

Response

Applicants object to this Interrogatory to the extent it asks for intended advertisements as this information is unknown. Notwithstanding the above objection, Applicants only market their products and services on Instagram through the pages @reasonablyshady, @gizellebryant, @robyndixon10, and through word of mouth during Applicants' podcasts.

4. Identify all manufacturers of goods bearing Applicants' REASONABLY SHADY mark.

Response

Applicants are unaware of any manufacturers bearing this mark, but are continuing to research this Interrogatory to determine if such third parties exist.

5. Have Applicants ever licensed or permitted or had negotiations to license or permit, or otherwise granted to any third party the right to use the REASONABLY SHADY mark? If so, identify the party or parties who have received or sought such license or permission or other right, state the nature and extent of any such license or permitted use or right, given or negotiated, and identify and describe all documents comprising or containing any such license, permission, request for permission or other right, or any agreement in respect to the Challenged Mark.

Response

Applicants have not licensed, permitted, or had negotiated to license the REASONABLY SHADY mark to third parties.

6. Identify all documents and set forth with specificity all facts regarding the selection of the REASONABLY SHADY mark including, without limitation, the name, position, and role of each person involved in the decision to adopt, register, and/or use the REASONABLY SHADY mark; the date on which Applicants decided to adopt, register, and/or use the REASONABLY SHADY mark; the circumstances and method by which Applicants decided to adopt, register, and/or use the REASONABLY SHADY mark; and the reasons why any proposed marks or names, if any, were rejected.

Response

No such documents or facts exist.

7. Identify all documents and state with specificity all facts with respect to any instance where a person or entity has been confused, mistaken, and/or deceived as to whether any goods and/or services advertised or sold under the Asserted Marks were those of Applicants, or whether any goods and/or services advertised or sold under Applicants' REASONABLY SHADY mark were those of Opposer, and for each such instance provide the date of such instance, the identity of the confused, mistaken, and/or deceived person or entity, and a detailed description of the circumstances of such confusion, mistake, and/or deception.

Response

No such documents or facts exist.

8. Identify all instances of infringement or potential infringement of the REASONABLY SHADY mark by third parties, regardless of whether or not such identification resulted in the filing of a lawsuit, and identify any cease-and-desist letter or other communication which was sent to the actual or suspected infringer(s) or its counsel.

Response

Applicants are unaware of any such instances at this time.

9. Identify all packaging (e.g. labels, hangtags, wrappers, containers) which bears the Challenged Mark.

Response

No such packaging exists.

10. Identify and describe any past or present third-party trademark uses, applications, or registrations that You contend are relevant to this opposition proceeding.

Response

Research as to third-party use is still ongoing. At this time, Applicants are aware of 131 live trademark registrations using the word “Shady,” including, but not limited to:

- SHADY SIDE, Registration No. 7,174,606
- SHADY PARK, Registration No. 6,738,562
- MRSHADY, Registration No. 6,558,009
- THE SHADY HISTORIAN, Registration No. 6,401,300
- SLAM SHADY, Registration No. 6,001,849
- SLICK SHADY, Registration No. 6,130,979
- SHADYNASTY, Registration No. 5,691,692
- SHADYSLIM, Registration No. 5,468,903
- 1 SINGH SHADY, Registration No. 5,573,039
- SOSHADEY, Registration No. 5,686,612

11. Describe with particularity the factual bases, if any, for Applicants’ denial of Paragraph 23 of the Amended Notice of Opposition in this proceeding, i.e., “The dominant portion of Applicants mark, REASONABLY SHADY, is identical to Opposer’s registered and prior used mark SHADY.”.

Response

Applicants object to this request as asking for a legal conclusion. Notwithstanding the above objection, the marks differ as to the first word “reasonably,” which is more prominent than any other word in the marks at issue.

12. Identify all facts concerning each search or investigation ever conducted by or on behalf of Applicants to determine whether other persons or entities have used or registered any name or mark similar to the Challenged Mark, or whether the use of the Challenged Mark would conflict with the rights of any person, including

the date of each search, all records examined, and all persons involved in each search.

Response

No such search or investigation has been conducted.

13. Identify and describe in reasonable detail Applicants' awareness of Opposer, the Asserted Marks, and Opposer's products and services, including, without limitation, Opposer's U.S. Trademark Registration Nos. 2667895, 2641856, 2626305, 2468453, 3199155, and when Applicants first became aware of Opposer, Opposer's products and services, and the Asserted Marks.

Response

Applicants objects to this Interrogatory as being indefinite as to what constitutes awareness. Notwithstanding the above objection, Applicants have heard of the recording artist Eminem, but did not know that he allegedly owned trademark registrations for SHADY and SLIM SHADY. Applicants do not know when they first heard of the recording artist, Eminem.

14. Identify and fully describe any communications concerning Opposer, the Asserted Marks, or Opposer's products or services, including without limitation, Opposer's rights in the Asserted Marks, the distinctiveness of the Asserted Marks, and confusion with the Asserted Marks.

Response

All communications between Opposer and Applicants have occurred during this proceeding. There has been no prior contact outside of the scope of this action.

15. Identify and fully describe the class(es), types, and characteristics of actual and potential purchasers of products or services under the Challenged Mark, including, without limitation, all documents concerning the age, income level, educational level, and gender of actual and potential purchasers.

Response

Applicants are not aware of the ages, income levels, educational level and gender of their actual and potential purchasers. With regard to “class, types, and characteristics,” Applicants object to this characterization and would ask Opposer to clarify to what these terms refer.

16. Identify all persons Applicants intend to use as witnesses in connection with any hearing or trial in this action, whether by live testimony, deposition testimony, affidavit or otherwise, and state the subject matter on which each person is expected to testify.

Response

At this time, Applicants are only aware of testimony from Ms. Robyn Dixon, Ms. Gizelle Bryant, and Mr. Marshall B. Mathers III, but reserve the right to supplement this response should other witnesses arise.

17. Identify all persons who provided information or documents for responses to these Interrogatories or Opposer’s First Request for Production of Documents.

Response

Ms. Robyn Dixon

.

DATED this 20th day of October 2023.

VERIFICATION

I, __Robyn Dixon_____, hereby certify that I have read the foregoing answers to Opposer's First Set of Interrogatories, know the contents thereof, and that the facts contained therein are true and correct.

A black rectangular box redacting the signature of Robyn Dixon.

Robyn Dixon

Objections By:

/ahe/

Andrea H. Evans, Esq.
The Law Firm of Andrea Hence
Evans LLC
14625 Baltimore Ave #853
Laurel, MD 20707

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Responses to Opposer's First Set of Interrogatories was served on counsel for Opposer, Manny D. Pokotilow, Esq. and Douglas Panzer, Esq., Caesar Rivise, P.C., 1635 Market Street, Seven Penn Center – 12th Floor, Philadelphia, Pennsylvania 19103, trademarks@crbcp.com, mpokotilow@crbcp.com, bmcgregor@crbcp.com, litdocketing@cbrocp.com, by Electronic Mail, this 20th day of October, 2023.

/ahe/

EXHIBIT B

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

Marshall B. Mathers III,

Opposer,

Opposition No. 91/283,402

v.

Robyn Dixon and Gizelle Bryant,

Applicants.

APPLICANTS ROBYN DIXON AND GIZELLE BRYANT'S RESPONSE TO
OPPOSER MARSHALL B. MATHERS III.'S REQUEST FOR PRODUCTION OF
DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Applicants Robyn Dixon and Gizelle Bryant. ("Applicants"), by their attorneys, respond to Opposer Marshall B. Mathers III's ("Opposer") request to produce certain documents for inspection and copying.

Applicants incorporate Applicants' General Objections to Opposer's First Set of Interrogatories.

GENERAL OBJECTIONS

1. All responses herein are based on information and documentation presently available and specifically known to Applicants.
2. Applicants reserve the right to amend and/or supplement this response should additional responsive information and documents be located.
3. To the extent Applicants produce information and documents in response to the Request, it does so without conceding the materiality, admissibility, or relevancy of any such documents. All objections to the use of any of the information or documents produced in response to these Requests are expressly reserved.
4. The following responses are given without prejudice to Applicants' right to produce evidence of any subsequently discovered facts of which Applicants may later become aware. Applicants

accordingly reserve the right to amend and/or supplement any and all answers herein as additional facts are ascertained, analysis made, legal research is completed, and contentions are made. The answers contained herein are made in a good faith effort to supply as much information as is presently known but should in no way prejudice Applicants in relation to further discovery, research, or analysis.

5. In providing these responses and objections, and in producing documents pursuant thereto, Applicants do not in any way waive or intend to waive, but rather intends to preserve and is preserving:

a. all objections as to competency, relevancy, materiality, and admissibility of the requests or responses or the subject matter thereof;

b. all objections as to vagueness, ambiguity, and undue burden;

c. all rights to object on any ground to the use of any of said documents or responses, or the subject matter thereof, in any subsequent proceedings, including the trial of this or any other action; and

d. all rights to object on any ground to any requests for further responses to these or any other request for documents, interrogatory requests, or other discovery requests involving or related to the subject matter of these requests.

6. The inadvertent or mistaken production of documents subject to the protections of the attorney-client privilege, work product doctrine, or other privilege or protection shall not constitute a general, inadvertent, implicit, subject matter, separate, independent, or other waiver of such privilege or protection, and does not put in issue or constitute the affirmative use of the advice of counsel or any privileged communications. All such inadvertently produced document(s) shall be returned to Applicants' counsel, along with any copies made thereof.

7. Applicants object to Opposer's Requests to the extent that they seek confidential documents and information, or documents or information protected from disclosure by the attorney-client privilege, attorney work product doctrine, or any other privilege or immunity from disclosure.

8. Applicants object to Opposer's Requests to the extent that they: request documents or things from some other source that is more convenient, less expensive, or less burdensome, or that Opposer has an opportunity to seek from another source; or where the burden or expense to Applicants of the proposed discovery outweighs its likely benefit to Opposer, taking into account the needs of the case, the parties' resources, the importance of the issues at stake in the litigation, the importance of the proposed discovery in resolving the issues, and the availability of information to Opposer from other sources.

9. Applicants object to all of Opposer's Requests as overbroad in that they are not limited to any particular time period.

10. In this response, Applicants are producing relevant, responsive, and non-privileged information and documents subject to the Protective Order governing this opposition. Applicants reserve the right to amend and/or supplement its document production as documents within its possession, custody, and control are located.

OBJECTIONS AND RESPONSES

1. All documents referred to or specified in Applicants Robyn Dixon and Gizelle Bryant's Initial Disclosures served by Applicants' counsel on May 12, 2023.

RESPONSE

Applicants object to Request 1 as overly broad, unduly burdensome and not proportional to the needs of the case. Nevertheless, representative documents are provided herewith.

2. All documents identified in response to Opposer's First Set of Interrogatories to Applicant.

RESPONSE

Applicants object to Request 2 as overly broad, unduly burdensome and not proportional to the needs of the case. Nevertheless, responsive documents are provided herewith.

3. Documents sufficient to show every version of Applicants' website since its creation.

RESPONSE

Applicants object to Request No. 3 as overly broad, unduly burdensome, vague and confusing since it is unclear what Opposer means by "every version of Applicants' website since its creation." Nevertheless, Applicants attached herewith pages from www.reasonablyshady.com.

4. Documents sufficient to identify each good and/or service sold or offered for sale, intended to be sold or intended to be offered for sale under the REASONABLY SHADY mark.

RESPONSE

Applicants object to Request 4 as overly broad, unduly burdensome and not proportional to the needs of the case. Nevertheless, responsive documents are provided herewith.

5. Documents identifying the price(s) charged for any product or service offered by Applicants under the REASONABLY SHADY mark.

RESPONSE

Applicants object to Request 5 as overly broad, unduly burdensome and irrelevant. Nevertheless, responsive documents are provided herewith.

6. Documents sufficient to show the first use date of the REASONABLY SHADY mark in connection with each good and/or service sold or offered for sale under the mark.

RESPONSE

Applicants object to Request 6 as vague as to what is meant by sufficient. Nevertheless, responsive documents are provided herewith.

7. Documents sufficient to show all means used to market, advertise, and/or promote the goods and/or services sold or offered for sale, intended to be sold or intended to be offered for sale under the REASONABLY SHADY mark.

RESPONSE

Applicants object to Request 7 as overly broad, unduly burdensome and not proportional to the needs of the case. Nevertheless, responsive documents are attached herewith.

8. Produce a copy of each and every different advertisement, intended advertisement, item of promotional material, and/or intended item of promotional material printed and/or disseminated by or for Applicants in which the term “shady” or “reasonably shady” appears.

RESPONSE

Applicants object to Request 8 as being duplicative of Request #7 and overbroad regarding “each and every different advertisement.” Notwithstanding the above objection, Applicants have provided responsive documents in response to Request #7.

9. Produce copies of all television commercials, press releases, radio scripts, and other media advertisement and/or coverage not previously requested herein, prepared by or for Applicants, whether or not released or aired, in which the term “shady” or “reasonably shady” appears.

RESPONSE

Applicants object to Request 9 as overly broad, unduly burdensome and not proportional to the needs of the case. Applicants also object to Request 9 as vague and unclear regarding copies “not previously requested herein.” Nevertheless, responsive documents are attached herewith.

10. Documents sufficient to show all unsolicited coverage of any goods and/or services sold, offered for sale, or intended to be sold or intended to be offered for sale under the REASONABLY SHADY mark.

RESPONSE

Applicants object to Request 10 as overly broad and unduly burdensome since they have no control over unsolicited coverage. Nevertheless, applicants are not aware of any such documents.

11. All documents concerning any studies or analyses reflecting consumer awareness of, recognition of, or reaction to Applicants’ REASONABLY SHADY mark, including, without limitation, all correspondence, consumer studies, surveys, market research, analyses, and unsolicited media coverage.

RESPONSE

No such documents exist.

12. Documents and things sufficient to show all design forms in which Applicants have used the REASONABLY SHADY mark or which comprise or incorporate the REASONABLY SHADY mark alone or in combination with other elements.

RESPONSE

Applicants object to Request 12 as being vague and unclear regarding requesting “things sufficient to show.” Nevertheless, Applicants have provided documentation indicating the presentation of its REASONABLY SHADY mark as used in commerce. Applicants have not presented the mark in any other form thus far.

13. Documents which record, refer to, or relate to the target audience and intended market for the goods and/or services marketed, advertised, and/or promoted under the REASONABLY SHADY mark.

RESPONSE

No such documents exist.

14. Documents reflecting the persons, entities, groups, or others who have purchased goods and/or services sold under the REASONABLY SHADY mark.

RESPONSE

Applicants object to Request 14 as being overbroad and vague regarding those who have purchased. Nevertheless, responsive documents are attached herewith for Attorneys Eyes Only.

15. Documents reflecting the identities of persons who have been guests on the REASONABLY SHADY podcasts.

RESPONSE

Responsive documents are attached herewith.

16. Documents reflecting the musical personalities and musicians who have been guests or subjects of the REASONABLY SHADY podcasts.

RESPONSE

No such documents exist.

17. Transcripts of all podcasts in which musicians, entertainers or musical personalities have been discussed on the REASONABLY SHADY podcasts.

RESPONSE

Applicants do not have transcripts of their podcasts in their custody or control.

18. Documents showing all manufacturers or intended manufacturers of goods bearing the REASONABLY SHADY mark.

RESPONSE

Applicants object to Request 18 as being irrelevant to this proceeding. Nevertheless, Applicants do not have these documents.

19. Documents which record, refer to, identify, describe, or relate to the channels of trade through which Applicant markets, advertises, promotes, sells, and/or offers for sale any goods and/or services under the REASONABLY SHADY mark or intends to market, advertise, promote, sell, and/or offer for sale any goods and/or services under the REASONABLY SHADY mark.

RESPONSE

Applicants object to this request as being duplicative of Request #7. Notwithstanding the above objection, responsive documents are provided in response to Request #7.

20. Documents which record, refer, or relate to Applicant's decision to adopt, register, and/or use the term "SHADY" as part of the REASONABLY SHADY mark including, without limitation, any investigation or search related to the availability for adoption, registration, licensing, use, intended use, exploitation, and/or intended exploitation of the term "SHADY," as well as samples of any names, designations, and/or marks considered and rejected.

RESPONSE

No such documents exist.

21. Documents which record, refer, or relate to Applicants' use of the term "SHADY" as an element of any designation or source indicator used by Applicants.

RESPONSE

No such documents exist.

22. Documents which refer, relate to, or are in any way concerned with the preparation, filing, and/or prosecution of any applications for registration, state or federal, of marks incorporating the term "SHADY" by Applicants.

RESPONSE

Applicants object to Request 22 as being overbroad and vague regarding "in any way concerned with the preparation, filing, and/or prosecution." Applicants further object to Request 22 as being protected by attorney client privilege. Nevertheless, responsive documents are attached herewith.

23. Documents and things concerning any modification by Applicants of Applicants' REASONABLY SHADY mark since the first use thereof, including all documents concerning the reason such modification was made.

RESPONSE

No such documents exist.

24. Documents which record, refer to, or relate to any instance where a person or entity has been confused, mistaken, and/or deceived as to whether any goods and/or services advertised or sold under any of Opposer's SHADY marks were those of Applicants or whether any goods and/or services advertised or sold under Applicants' REASONABLY SHADY mark were those of Opposer.

RESPONSE

No such documents exist.

25. All documents and things concerning any similarity between Opposer's SHADY marks and Applicants' REASONABLY SHADY mark, including, without limitation, all documents relating to any statement, comment or communication from any person concerning comparisons of Opposer's SHADY marks and Applicants' REASONABLY SHADY mark.

RESPONSE

No such documents exist.

26. Documents which record, refer to, or relate to Applicants' knowledge and/or awareness of the use and/or registration of any of the SHADY marks by Opposer.

RESPONSE

No such documents exist outside of the pleadings in this proceeding.

27. All documents referring, mentioning, or relating to Opposer Marshall Mathers III or his SHADY marks.

RESPONSE

Applicants object to Request 27 as being vague and overbroad and exceeding the scope of this proceeding as this can refer to documents outside of Applicants custody and control. Nevertheless, no such documents exist.

28. All documents registering complaints about any of Applicants' goods or services under the mark REASONABLY SHADY.

RESPONSE

No such documents exist.

29. All documents relating or referring to communications with third parties regarding any of Opposer's SHADY marks, including communications which reference the terms "SLIM SHADY" and/or "SHADY".

RESPONSE

No such documents exist.

30. All documents and things concerning any assignments, licenses, consents to use, or any other transfers of any rights to or from Applicants, in any name or mark comprised in whole or in part of Applicants' REASONABLY SHADY mark.

RESPONSE

No such documents exist.

31. All documents and things concerning any instance in which Applicants objected to any third-party use or registration of a name or mark believed by Applicants to be confusingly similar to Applicants' REASONABLY SHADY mark. All communications with any person other than Opposer concerning a dispute or potential dispute between Applicants and any other person or entity regarding trademark ownership rights in the United States.

RESPONSE

Applicants object to this Request as a compound request, but given that the Request seems to ask a similar question, no such documents exist.

32. All documents and things concerning communications to, from, or with actual or prospective clients, customers, the media, or other participants in the marketplace concerning the quality of the goods sold or intended to be sold under the REASONABLY SHADY mark, without limitation, including negative product feedback.

RESPONSE

No such documents exist.

33. All documents evidencing Applicants' bona fide intention to use Applicants' REASONABLY SHADY mark in interstate commerce at the time of filing the Application Serial No. 97248176.

RESPONSE

Applicants object to this Request as asking for a legal conclusion. Notwithstanding the above objection, Applicants have provided evidence of

actual use of the REASONABLY SHADY mark, and there are no written documents discussing the concept of bona fide intent.

34. All documents and things concerning any allegation set forth in Applicants' Answer to Opposer's Amended Notice of Opposition.

RESPONSE

Applicants object to this Request as an omnibus request which will be unnecessary duplicative of many of the Requests already made. Notwithstanding the above objection, representative documents are attached herewith.

35. All documents and things on which Applicants intend to rely in this opposition.

RESPONSE

Applicants object to this Request as being untimely as Applicants are still gathering evidence and are permitted to do so pursuant to the trial calendar set forth by the Trademark Trial and Appeal Board. Notwithstanding the above objection, Applicants have provided documentation that is currently in their possession.

36. All documents Applicants contend are relevant to this proceeding.

RESPONSE

Applicants object to this Request as an omnibus request which will be unnecessary duplicative of many of the Requests already made. Notwithstanding the above objection, representative documents are attached herewith and will continue to be provided in accordance with the Trial schedule.

DATED this 20th day of October 2023.

/ahe/
Andrea H. Evans, Esq.
The Law Firm of Andrea Hence
Evans LLC

14625 Baltimore Ave #853
Laurel, MD 20707

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Responses to Opposer's First Request for Production of Documents was served on counsel for Opposer, Manny D. Pokotilow, Esq. and Douglas Panzer, Esq., Caesar Rivise, P.C., 1635 Market Street, Seven Penn Center – 12th Floor, Philadelphia, Pennsylvania 19103, trademarks@crbcp.com, mpokotilow@crbcp.com, bmcgregor@crbcp.com, litdocketing@cbrocp.com, by Electronic Mail, this __20th__ day of __October_____, 2023.

_____/ahe/_____

EXHIBIT C

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
3 MARSHALL B. MATHERS, III)
4 Opposer) Opposition No.:
5 Vs.) 91283402
6 ROBYN DIXON, ET AL)
7 Applicants)

8 -----

9
10 Deposition of ROBYN DIXON, was taken via
11 videotape on Monday, July 24, 2023, commencing at
12 10:16 a.m., at Veritext Legal Solutions, 36 South
13 Charles Street, 20th Floor, Baltimore, Maryland,
14 before MICHELE D. LAMBIE, Notary Public.

15 -----

16
17
18
19
20 Reported By:

21 Michele D. Lambie, CSR-RPR

1 the mark for providing podcasts in the field of
2 dating, relationships, marriage, entrepreneurs,
3 motherhood, style, glam, and current events?

4 A. Yes.

5 Q. Okay. And that's been since you filed
6 the application?

7 A. Yes.

8 Q. Okay. When did you start using
9 Reasonably Shady for providing podcasts in the
10 field of dating, relationships, marriage,
11 entrepreneurs, motherhood, style, glam, and current
12 events?

13 MS. EVANS: Objection. Asked and
14 answered.

15 THE WITNESS: When -- when the podcast
16 premiered in May of 2021.

17 BY MR. POKOTILOV:

18 Q. So it was right from the start?

19 A. Yes.

20 Q. Thank you. Do you have plans to use
21 Reasonably Shady for any of the products for which

1 you applied for, but for which you have not yet
2 used the mark Reasonably Shady?

3 A. No current plans, but that's not to say
4 that we would never. But at the moment, we don't
5 have anything.

6 Q. For what services do you have plans?

7 A. We don't have -- well, we are attempting
8 to -- to do television projects as a derivative of
9 the podcast, but as far as the candles or the eye
10 shadow, lip gloss, makeup, we don't have any
11 current plans for that, nothing in the foreseeable
12 future.

13 Q. As to services, you are using the mark
14 for entertainment services; is that correct?

15 A. Yes.

16 Q. Okay.

17 MR. POKOTILOW: All right. Let's mark
18 this as Exhibit 3.

19 (Whereupon, Dixon Deposition Exhibit No.
20 3, Website Screenshot, marked for identification.)

21 MR. POKOTILOW: This is No. 3.

1 BY MR. POKOTILOV:

2 Q. I've marked for -- I've had marked for
3 identification Exhibit 3 Mathers. The -- the
4 Bates -- the Mathers Bates number is 506 to 508.

5 Have you ever seen Opposer's Exhibit 3
6 before?

7 A. Me?

8 Q. Yes.

9 A. Of course.

10 Q. Okay. Can you tell me what it is?

11 A. This is -- these are the products -- this
12 is our website, a screenshot from our website of
13 the products that we sell under Reasonably Shady,
14 reasonablyshady.com.

15 Q. So is it correct that this is a
16 screenshot of your website reasonablyshady.com?

17 A. Yes.

18 Q. Okay. And is this the current version of
19 your screenshot?

20 A. Yes.

21 Q. And is it correct that you are selling

EXHIBIT D

Generated on: This page was generated by TSDR on 2026-10-14 12:26:37 EDT

Mark: REASONABLY SHADY

Reasonably Shady

US Serial Number: 97248176

Application Filing Date: Feb. 01, 2022

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark, Service Mark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Opposition Pending

The pending trademark application has been examined by the Office and was published for opposition, at which time one or more oppositions were filed but they have not yet been decided.

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Feb. 14, 2023

Publication Date: Dec. 20, 2022

Mark Information

Mark Literal Elements: REASONABLY SHADY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Eye-shadow; Lip gloss; Make-up

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

For: Candles

International Class(es): 004 - Primary Class

U.S Class(es): 001, 006, 015

Class Status: ACTIVE

For: Mugs; Water bottles sold empty

International Class(es): 021 - Primary Class

U.S Class(es): 002, 013, 023, 029, 030, 033, 040, 050

Class Status: ACTIVE

For: Hats; Pants; Shirts; Socks; Sweatshirts; Jackets

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

For: Paddle boards

International Class(es): 028 - Primary Class

U.S Class(es): 022, 023, 038, 050

Class Status: ACTIVE

For: (Based on Use in Commerce) Entertainment services, namely, providing podcasts in the field of dating, relationships, marriage, entrepreneurs, motherhood, style, glam, and current events (Based on Intent to Use) Entertainment services, namely, an ongoing series featuring dating, relationships, marriage, entrepreneurs, motherhood, style, glam, and current events provided through television, webcasts, and radio broadcasts; Hosting social entertainment events, namely, parties for others

International Class(es): 041 - Primary Class

U.S Class(es): 100, 101, 107

Class Status: ACTIVE

First Use: May 24, 2021

Use in Commerce: May 24, 2021

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: Yes

Currently ITU: Yes

Filed 44D: No

Currently 44D: No

Filed 44E: No

Currently 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Robyn Dixon

Owner Address: Suite 112
2707 N. Rolling Rd.
Baltimore, MARYLAND UNITED STATES 21244

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Owner Name: Gizelle Bryant

Owner Address: Suite 112
2707 N. Rolling Rd.
Baltimore, MARYLAND UNITED STATES 21244

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Attorney/Correspondence Information

Attorney of Record

Attorney Name: ANDREA EVANS

Docket Number: Dixon-1190

Attorney Primary Email Address: andrea.evans@evansiplaw.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: ANDREA EVANS
THE LAW FIRM OF ANDREA HENCE EVANS, LLC
14625 BALTIMORE AVE. #853
LAUREL, MARYLAND UNITED STATES 20707

Phone: 301-497-9997

Fax: 8887990847

Correspondent e-mail: andrea.evans@evansiplaw.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 14, 2023	OPPOSITION INSTITUTED NO. 999999	283402
Jan. 19, 2023	EXTENSION OF TIME TO OPPOSE RECEIVED	
Dec. 20, 2022	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Dec. 20, 2022	PUBLISHED FOR OPPOSITION	
Nov. 30, 2022	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	

Nov. 15, 2022 APPROVED FOR PUB - PRINCIPAL REGISTER
Nov. 15, 2022 EXAMINER'S AMENDMENT ENTERED
Nov. 15, 2022 NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED
Nov. 15, 2022 EXAMINERS AMENDMENT E-MAILED
Nov. 15, 2022 EXAMINERS AMENDMENT -WRITTEN
Nov. 14, 2022 ASSIGNED TO EXAMINER
Feb. 07, 2022 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED
Feb. 04, 2022 NEW APPLICATION ENTERED

TM Staff and Location Information

TM Staff Information

TM Attorney: BULLOFF, TOBY ELLEN

Law Office Assigned: LAW OFFICE 119

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 16, 2022

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: [91283402](#)

Filing Date: Feb 14, 2023

Status: Pending

Status Date: Aug 17, 2026

Interlocutory Attorney: ANN LINNEHAN VOGLER

Defendant

Name: Robyn Dixon and Gizelle Bryant

Correspondent Address: ANDREA EVANS

THE LAW FIRM OF ANDREA HENCE EVANS, LLC
14625 BALTIMORE AVE. #853
LAUREL MD UNITED STATES , 20707

Correspondent e-mail: andrea.evans@evansiplaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
REASONABLY SHADY		97248176	

Plaintiff(s)

Name: Marshall B. Mathers III

Correspondent Address: MANNY D. POKOTILOW

ROYER COOPER COHEN BRAUNFELD
101 W ELM STREET, SUITE 400
CONSHOHOCKEN PA UNITED STATES , 19428

Correspondent e-mail: mpokotilow@rccblaw.com , dpanzer@rccblaw.com , trademarks@rccblaw.com , rachelepstein@quinnemanuel.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SLIM SHADY		76152078	2667895
SLIM SHADY		76181431	2641856
SLIM SHADY		76181429	2626305
SHADY		75831719	2468453
SHADY LIMITED		76473321	3199155

Prosecution History

Entry Number	History Text	Date	Due Date
48	ANSWER	Aug 27, 2026	
47	PROCEEDINGS RESUMED	Aug 17, 2026	
46	P REPLY IN SUPPORT OF MOTION	Aug 13, 2026	
45	D OPP/RESP TO MOTION	Jul 24, 2026	
44	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 20, 2026	
43	P MOT TO AMEND PLEADING/AMENDED PLEADING	Jul 17, 2026	
42	P APPEARANCE	Jun 22, 2026	
41	CORRECTION TO BD ORDER	May 18, 2026	
40	PROCEEDINGS RESUMED	Apr 16, 2026	
39	P OPP/RESP TO MOTION	Nov 11, 2025	
38	SUSP PEND DISP OF OUTSTNDNG MOT	Oct 29, 2025	
37	D MOT TO COMPEL DISCOVERY	Oct 22, 2025	
36	SUSPENDED	Sep 03, 2025	
35	P CHANGE OF CORRESP ADDRESS	Jul 21, 2025	
34	P OPP/RESP TO MOTION	May 06, 2025	
33	SUSP PEND DISP OF OUTSTNDNG MOT	Apr 28, 2025	
32	D MOT TO STRIKE TESTIMONY	Apr 17, 2025	
31	PAPER RECEIVED AT TTAB	Apr 14, 2025	
30	P NOTICE OF TAKING TESTIMONY	Mar 26, 2025	
29	P MOT FOR SUMMARY JGT DENIED	Mar 18, 2025	
28	P REPLY IN SUPPORT OF MOTION	Dec 24, 2024	
27	D OPP/RESP TO MOTION	Dec 05, 2024	
26	SUSP PEND DISP OF OUTSTNDNG MOT	Oct 08, 2024	
25	P OPP/RESP TO MOTION	Jul 31, 2024	
24	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 26, 2024	
23	D REQUEST FOR RECON	Jul 12, 2024	
22	P CHANGE OF CORRESP ADDRESS	Jul 10, 2024	
21	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 01, 2024	
20	P OPP/RESP TO MOTION	Mar 22, 2024	
19	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 19, 2024	
18	D OPP/RESP TO MOTION	Mar 06, 2024	
17	P MOT FOR SUMMARY JUDGMENT	Feb 29, 2024	
16	CONFIDENTIAL - P MOTION FOR SUMMARY JUDGMENT	Feb 29, 2024	
15	P MOT FOR SUMMARY JUDGMENT	Feb 29, 2024	
14	PROCEEDINGS RESUMED	Feb 29, 2024	
13	P REPLY IN SUPPORT OF MOTION	Dec 22, 2023	
12	D REPLY/RESPONSE TO CROSS-MOTION	Dec 20, 2023	
11	P RESPONSE/CROSS-MOTION FOR PROTECTIVE ORDER	Dec 15, 2023	
10	SUSP PEND DISP OF OUTSTNDNG MOT	Dec 13, 2023	
9	D MOTION TO COMPEL DEPOSITION	Nov 29, 2023	
8	EXTENSION OF TIME GRANTED	Sep 06, 2023	
7	P MOT FOR EXT W/ CONSENT	Sep 06, 2023	
6	ANSWER	Mar 01, 2023	
5	TRIAL DATES RESET	Feb 25, 2023	
4	P MOT TO AMEND PLEADING/AMENDED PLEADING	Feb 21, 2023	
3	INSTITUTED	Feb 14, 2023	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Feb 14, 2023	Mar 26, 2023
1	FILED AND FEE	Feb 14, 2023	

Type of Proceeding: Extension of Time

Proceeding [97248176](#)
Number:

Filing Date: Jan 19, 2023

Status: Terminated

Status Date: Feb 18, 2023

Interlocutory
Attorney:

Defendant**Name:** Robyn Dixon; Gizelle Bryant**Correspondent** ANDREA EVANS**Address:** THE LAW FIRM OF ANDREA HENCE EVANS, LLC
14625 BALTIMORE AVE. #853
LAUREL MD UNITED STATES , 20707**Correspondent e-mail:** andrea.evans@evansiplaw.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
REASONABLY SHADY		97248176	

Potential Opposer(s)**Name:** Marshall B. Mathers III**Correspondent** MANNY D. POKOTILOW**Address:** CAESAR RIVISE, PC
1635 MARKET STREET, SEVEN PENN CENTER, 12TH FLOOR
PHILADELPHIA PA UNITED STATES , 19103**Correspondent e-mail:** trademarks@crbcp.com , mpokotilow@crbcp.com , bmcgregor@crbcp.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
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Prosecution History

Entry Number	History Text	Date	Due Date
2	EXT GRANTED	Jan 19, 2023	
1	FIRST 30-DAY REQUEST TO EXT TIME TO OPPOSE	Jan 19, 2023	

EXHIBIT E

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
General Email: TTABInfo@uspto.gov

August 17, 2026

Opposition No. 91283402

Marshall B. Mathers III

v.

Robyn Dixon and Gizelle Bryant

Ann Linnehan, Interlocutory Attorney

This case now comes up for consideration of Opposer's motion (filed July 17, 2026) for leave to amend the notice of opposition.¹ The motion is fully briefed. Opposer filed a copy of his second amended notice of opposition for the Board's consideration.²

The Board has considered all of the parties' arguments and evidence submitted in connection with the motion but does not recount them all here, except as necessary to explain this decision. *Guess? IP Holder LP v. Knowlux LLC*, Can. No. 92060707, 2015 TTAB LEXIS 482, at *4-5 (TTAB 2015).

¹ 43 TTABVUE. In this order, the Board cites to the proceeding record by the TTABVUE docket entry number and TTABVUE page number, in accordance with the guidance provided in TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) §§ 106.03, 702.05 and 801.01 (2026). The Board expects that the parties will use this method of citing to the record throughout this proceeding.

² *Id.* at 46-55.

Opposer seeks to add a claim that Applicants lacked a bona fide intent to use the subject mark in commerce on the goods identified in International Class 3 (Eye-shadow; Lip gloss; Make-up) and International Class 4 (Candles) at the time of filing Application Serial No. 97248176 (“the Application”).

In support of his motion, Opposer argues that the “motion is based on discovery conducted in this proceeding, including Applicants’ responses to Opposer’s First Set of Interrogatories and First Request for Production of Documents, as well as the deposition testimony of Applicant Robyn Dixon, in which she testified that ‘at the moment, we don’t have anything...[A]s far as the candles or the eye shadow, lip gloss, makeup, we don’t have any current plans for that, nothing in the foreseeable future.’”³ Opposer further emphasizes that “[d]iscovery having recently closed, Applicants have produced no documents and disclosed no facts evidencing any plan, preparation, or capacity to manufacture, market, distribute, price, package, or sell eye-shadow, lip gloss, make-up, or candles under the mark.”⁴

Opposer further asserts that it “could not have responsibly pled a no-bona-fide-intent claim for Class 3 and Class 4 goods until the discovery record confirmed the total absence of documentation or plans relating to those goods” and that “[i]t was only upon receipt of Applicants’ discovery responses, the receipt of Applicant Dixon’s deposition testimony confirming that Applicants have ‘no current plans’ for the goods,

³ *Id.* at 2.

⁴ *Id.* at 3.

and the exhaustion of the period for Applicants to supply evidence to the contrary that Opposer was in a position to bring this claim in good faith.”⁵

In response, Applicants argue that “Opposer’s proposed amendment is untimely, prejudicial, and not justified by newly discovered facts”; that “Opposer relies principally on discovery responses served in October 2023 and on July 24, 2023 deposition testimony that speaks to current or future plans, not Applicants’ intent at the time the application was filed”; and that “Opposer has already delayed this proceeding through repeated motion practice and now seeks to inject a new substantive claim after discovery has closed, requiring Applicants to incur additional expense and potentially reopen discovery on an issue that Opposer could have raised long ago.”⁶

In reply, Opposer argues that “the dual absence of evidence contemporaneous with the application filing and subsequent thereto, despite every opportunity for Applicants to produce it, permits the requested amendment to the Notice of Opposition based precisely on the passage of the complete discovery period and Applicants’ failure to make any evidence available” and that “[t]he amendment is timely and meritorious.”⁷ Opposer also asserts that “there was no prejudice to Applicants because it was literally impossible for Opposer to know prior to the close of discovery that Applicants would complete discovery without producing a single

⁵ *Id.* at 9.

⁶ 45 TTABVUE 2-3.

⁷ 46 TTABVUE 5.

piece of evidence of their bona fide intent to use the mark in connection with goods in Classes 3 and 4.”⁸

The Board generally grants leave to amend pleadings at any stage of the proceeding when justice requires, unless entry of the proposed amendment violates settled law or be prejudicial to the rights of the adverse party or parties. *See, e.g., Commodore Elec. Ltd. v. CBM Kabushiki Kaisha*, Opp. 86336, 1993 TTAB LEXIS 6, at *8; and *United States Olympic Comm. v. O-M Bread Inc.*, Opp. No. 86739, 1993 TTAB LEXIS 31, at *5. The timing of the motion for leave to amend plays a large role in the Board’s determination of whether the adverse party would be prejudiced by allowance of the proposed amendment. *See, e.g., United States Olympic Comm.*, 1993 TTAB LEXIS 31, at *5 (applicant not prejudiced because proceeding still in pre-trial phase); *Focus 21 Internat’l Inc. v. Pola Kasei Kogyo Kabushiki Kaisha*, Can. No. 19611, 1992 TTAB LEXIS 12, at *6 (motion to amend filed prior to opening of petitioner’s testimony period permitted); *Caron Corp. v. Helena Rubenstein, Inc.*, 1976 TTAB LEXIS 119, at *4 (neither party had yet taken testimony); TBMP § 507.02(a).

After carefully reviewing the amended pleading and the parties’ papers, the Board finds that Opposer did not unduly delay in seeking to amend its notice of opposition. The record indicates that this case has been suspended for much of the proceeding’s history offering Opposer little opportunity to amend its pleading. The motion was filed just two weeks after the close of discovery. The proposed claim appears to be

⁸ *Id.* at 8-9.

based on the cumulative weight of Applicants' discovery responses and deposition testimony. Most importantly, the motion was filed during the pre-trial stage of proceedings. Therefore, allowing the amendment will not unduly delay proceedings. Moreover, there is no evidence that Opposer has acted in bad faith. There is no convincing evidence of prejudice to Applicants.

To sufficiently plead lack of bona fide intent to use, Opposer must allege that Applicants lacked a bona fide intent to use their mark in commerce on or in connection with the goods identified in the relevant classes of the application as of the application filing date. *See Mt. Gateway Order, Inc. v. Va. Comty. Coll. Sys.*, Opp. No. 91283412, 2024 TTAB LEXIS 209, at *22; *Monster Energy Co. v. Tom & Martha LLC*, 2021 TTAB LEXIS 458, 2021 USPQ2d 1197, at *8 (TTAB 2021).

After reviewing the proposed claim, the Board finds that the claim of lack of bona fide intent to use is properly pleaded in Paragraph Nos. 35-45 of the proposed amended pleading.⁹

In view of the foregoing, the motion for leave is granted. The second amended notice of opposition is accepted into the record and is now the operative pleading.

Proceedings Resumed

Proceedings are resumed. Applicants have until September **14, 2026** to file an answer the second amended notice of opposition.

The Board finds it appropriate to reopen discovery for a limited time and for the limited purpose of taking discovery on the newly added claim only.

⁹ 43 TTABVUE 53-55.

Discovery on the New Claim Closes	9/30/2026
Plaintiff's Pretrial Disclosures Due	11/14/2026
Plaintiff's 30-day Trial Period Ends	12/29/2026
Defendant's Pretrial Disclosures Due	1/13/2027
Defendant's 30-day Trial Period Ends	2/27/2027
Plaintiff's Rebuttal Disclosures Due	3/14/2027
Plaintiff's 15-day Rebuttal Period Ends	4/13/2027
Plaintiff's Opening Brief Due	6/12/2027
Defendant's Brief Due	7/12/2027
Plaintiff's Reply Brief Due	7/27/2027
Request for Oral Hearing (optional) Due	8/6/2027

Important Trial and Briefing Instructions

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). **Such briefs should utilize citations to the TTABVue record created during trial, to facilitate the Board's review of the evidence at final hearing.** See TBMP § 801.03. Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).

EXHIBIT F

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

DECLARATION OF GIZELLE BRYANT

I, Gizelle Bryant, declare as follows:

1. I am one of the Applicants in the above-captioned proceeding. I have personal knowledge of the facts stated in this declaration and, if called as a witness, could and would testify competently to them.
2. This declaration concerns my intent, as of February 1, 2022, to use the REASONABLY SHADY mark in connection with eye shadow, lip gloss, make-up, and candles.

The REASONABLY SHADY Brand Before the Application

3. By February 1, 2022, REASONABLY SHADY was an existing brand that Robyn Dixon and I had developed together. We were already using REASONABLY SHADY as the name of our podcast and in connection with merchandise offered to our audience.
4. Before the trademark application was filed, Robyn and I had experience developing, promoting, and offering merchandise bearing the REASONABLY SHADY mark. We offered merchandise through our website, and much of our merchandise was obtained and fulfilled through Printful.
5. REASONABLY SHADY was a small business operated primarily by Robyn and me. We did not have a large corporate structure, a product-development department, or employees responsible for preparing formal business plans or written proposals for each product we considered offering.

6. Robyn and I were personally involved in decisions concerning the development of the REASONABLY SHADY brand. We regularly discussed ideas for the business, potential merchandise and products, and ways in which we could expand the brand. Those discussions were generally informal and oral. We did not ordinarily prepare formal business plans, meeting minutes, product-development reports, or similar written records each time we discussed or considered a new product.
7. That was also how we approached products that we ultimately offered under the REASONABLY SHADY brand. Robyn and I would discuss potential merchandise, determine whether we believed a product was appropriate for the brand, and then take the steps necessary to source and offer the product through our website. We did not prepare a formal written business plan each time we considered or added a new REASONABLY SHADY product.

Pre-Filing Plans for Candles and Make-Up Products

8. Before February 1, 2022, Robyn and I discussed expanding REASONABLY SHADY beyond the products we were already offering and adding additional consumer products under the brand.
9. Our discussions specifically included offering candles and lip gloss, as well as eye shadow, under the REASONABLY SHADY mark. We considered those products to be additional consumer products that could be offered as part of the existing REASONABLY SHADY brand, and we intended to offer them to our audience.
10. Candles were among the products we specifically considered because candles were available through Printful, the same platform through which we were already obtaining

much of our REASONABLY SHADY merchandise. Offering candles therefore fit within the process we were already using to source and offer branded merchandise.

11. We contemplated following the same general process we had used for our existing REASONABLY SHADY merchandise:
 - (a) identifying an appropriate product and source;
 - (b) offering the product under the REASONABLY SHADY brand; and
 - (c) making it available to consumers through our website and existing channels.
12. Robyn and I also specifically discussed offering lip gloss and eye shadow, and expanding the REASONABLY SHADY brand into make-up products. Make-up and beauty products were familiar consumer-product categories to us. We regularly wore and used make-up in connection with events and public appearances, and we viewed lip gloss, eye shadow, and make-up as products that could be offered as an extension of the REASONABLY SHADY brand.
13. We did not intend to manufacture cosmetics ourselves. We contemplated obtaining make-up products through a third-party or private-label manufacturer and offering those products under the REASONABLY SHADY brand.
14. Because REASONABLY SHADY was a small business operated primarily by Robyn and me, bringing make-up products to market would have required additional work on our part. We would have needed to research potential manufacturers and suppliers, evaluate available products, obtain and test samples, assess product quality, and determine whether a particular manufacturer and its products were appropriate for the REASONABLY SHADY brand. We also would have needed to address matters such as branding,

packaging, pricing, minimum-order requirements, and the logistics of offering the products through our website.

15. We had not completed that process or selected a particular make-up manufacturer or supplier as of February 1, 2022. Our plans were still at an early stage, and additional research and product-development work would have been necessary before we could bring the contemplated make-up products to market under the REASONABLY SHADY brand.
16. We anticipated marketing and selling these additional products through our REASONABLY SHADY website and the same channels we were already using to promote the podcast, brand, and merchandise.
17. At that stage, we had not finalized specific product details such as particular colors or scents. Those types of details ordinarily would have been developed as we moved forward with a particular product, just as we had done with other products offered under the REASONABLY SHADY brand.
18. The fact that these product-development steps had not yet been completed did not mean that candles and make-up products were included in the trademark application merely as products that we might conceivably offer someday. Before the application was filed, Robyn and I had actually discussed offering these products as part of our planned expansion of the REASONABLY SHADY brand.

Intent as of February 1, 2022

19. When the trademark application was filed on February 1, 2022, I intended for REASONABLY SHADY to continue developing beyond the podcast and merchandise we were already offering and into additional consumer products.
20. Based on the discussions Robyn and I had before filing, I intended to use REASONABLY SHADY in connection with candles and make-up products, including lip gloss and eye shadow.
21. At the time of filing, we had not yet selected final products or suppliers, finalized packaging or pricing, or established a launch date for those products. Our plan was to continue developing and sourcing additional products as part of the expansion of the REASONABLY SHADY brand, using third-party sources and the website and channels through which we were already offering and promoting REASONABLY SHADY products.
22. I did not view the candles, lip gloss, eye shadow, and make-up identified in the application as merely hypothetical categories in which we wanted to reserve the REASONABLY SHADY name. Our intent was to continue expanding an existing brand into additional consumer products, including the candles, lip gloss, eye shadow, and other make-up products that Robyn and I had discussed before the application was filed.

Subsequent Events

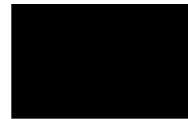
23. After the application was filed, our business priorities changed. Because REASONABLY SHADY was a small business operated primarily by Robyn and me, we had limited time and resources to devote to developing additional product lines. We continued to devote our

attention to the REASONABLY SHADY podcast and the products and services we were already offering. After this opposition proceeding was filed, we also were required to devote time and attention to this trademark litigation.

24. During that period, we did not move forward with the additional research, sourcing, and product-development work that would have been necessary to launch the contemplated candles and make-up products. We therefore did not progress to the point of selecting final products or suppliers, developing packaging, establishing pricing, or launching those products.
25. Although we ultimately did not launch the contemplated candles and make-up products, including lip gloss and eye shadow, my intent as of February 1, 2022 was to use the REASONABLY SHADY mark in connection with those products as part of the continued expansion of the existing REASONABLY SHADY brand. That intent was based on the discussions Robyn and I had before the application was filed and our experience developing and offering other REASONABLY SHADY merchandise.
26. I make this declaration voluntarily and based upon my personal knowledge.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: Sept. 25,, 2026, in Bethesda, MD.

A solid black rectangular box used to redact the signature of Gizelle Bryant.

Gizelle Bryant

EXHIBIT G

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

DECLARATION OF ROBYN DIXON

I, Robyn Dixon, declare as follows:

1. I am one of the Applicants in the above-captioned proceeding. I have personal knowledge of the facts stated in this declaration and, if called as a witness, could and would testify competently to them.
2. This declaration concerns my intent, as of February 1, 2022, to use the REASONABLY SHADY mark in connection with eye shadow, lip gloss, make-up, and candles.

The REASONABLY SHADY Brand Before the Application

3. REASONABLY SHADY was not merely a proposed trademark when the application was filed. By February 1, 2022, Gizelle Bryant and I had already developed and were using REASONABLY SHADY as the name of our podcast and as a consumer-facing brand.
4. The REASONABLY SHADY podcast was launched and in use before February 1, 2022. In connection with the podcast and brand, we also offered REASONABLY SHADY merchandise to our audience.
5. Before the application was filed, we had experience offering merchandise bearing the REASONABLY SHADY mark, including through our website. Much of the merchandise we offered was obtained and fulfilled through Printful.
6. Our business at that time was a small business operated primarily by Gizelle and me. We did not have a large corporate structure, product-development department, or employees responsible for preparing formal business plans or written proposals for each potential new

product. Gizelle and I were directly involved in developing and operating the REASONABLY SHADY brand, and we regularly discussed business ideas, potential products, merchandising opportunities, and plans for expanding the brand directly with one another. Those discussions were often informal and oral rather than documented in written business plans, product-development reports, meeting minutes, or similar records. When we considered adding a new product to the REASONABLY SHADY brand, we did not ordinarily create a formal written business plan before deciding whether and how to move forward with it. Our discussions and planning concerning candles, lip gloss, make-up, and other potential extensions of the REASONABLY SHADY brand occurred in this same manner. The fact that we did not prepare formal written plans reflecting those discussions was consistent with how we operated and made business decisions at that stage of the REASONABLY SHADY business.

7. This was also the manner in which Gizelle and I approached products that were ultimately offered under the REASONABLY SHADY brand. We would discuss potential merchandise and products between ourselves, determine whether a product was appropriate for the brand, and then take the steps necessary to source and offer the product through our website. We did not prepare a formal written business plan each time we considered or added a new REASONABLY SHADY product.

Pre-Filing Plans for Candles and Make-Up Products

8. Before February 1, 2022, Gizelle and I discussed expanding the types of consumer products offered under the REASONABLY SHADY brand.
9. Those discussions specifically included offering candles and lip gloss, as well as eye shadow, under the REASONABLY SHADY mark. We considered those products to be

additional consumer products that could be offered as part of the existing REASONABLY SHADY brand.

10. Candles were a product we specifically considered because candles were available through Printful, the same platform through which we were already obtaining much of our REASONABLY SHADY merchandise. Accordingly, offering REASONABLY SHADY candles was consistent with the manner in which we were already sourcing and offering branded products.
11. We intended to follow the same general process we had used for other REASONABLY SHADY merchandise:
 - (a) identify an appropriate product and source;
 - (b) offer the product under the REASONABLY SHADY brand; and
 - (c) make it available to consumers through our website and existing channels.
12. We also specifically discussed offering lip gloss and eye shadow, and expanding REASONABLY SHADY into make-up products. Beauty and make-up were familiar consumer-product categories to us. Gizelle and I regularly wore and used make-up in connection with events and public appearances, and we viewed lip gloss, eye shadow, and make-up as products that could be offered as an extension of the REASONABLY SHADY brand.
13. Our discussions concerning make-up were not discussions about manufacturing cosmetics ourselves. We contemplated obtaining make-up products through a third-party or private-label manufacturer and offering those products under the REASONABLY SHADY brand. Since REASONABLY SHADY was a small business operated primarily by Gizelle and me, identifying an appropriate manufacturer would have required us to devote time to

researching potential manufacturers and suppliers, evaluating available products, obtaining and testing samples, assessing product quality, and determining whether a particular manufacturer and its products were appropriate for the REASONABLY SHADY brand. We also would have needed to work through matters such as branding, packaging, pricing, minimum-order requirements, and the logistics of offering the products through our website. We had not completed that process or selected a particular manufacturer or supplier as of February 1, 2022. Our plans were still at an early stage, and additional research and product-development work would have been necessary before we could bring the contemplated make-up products to market under the REASONABLY SHADY brand.

14. We anticipated marketing and selling these additional products through our REASONABLY SHADY website and the channels we were already using to promote the podcast, brand, and merchandise.
15. At that stage, we also had not finalized specific product details, such as particular colors or scents. Those types of details ordinarily would have been developed as we moved forward with a particular product, just as we had done with other products offered through the REASONABLY SHADY brand.
16. The fact that these product-development steps had not yet been completed did not mean that candles and make-up products were included in the trademark application merely as products we might conceivably offer someday. Before the application was filed, Gizelle and I had actually discussed offering these products as part of our planned expansion of the REASONABLY SHADY brand.

Trademark Consultation Before Filing

17. On September 4, 2020, I consulted with Attorney Andrea H. Evans concerning trademark protection for the REASONABLY SHADY brand, well before the February 1, 2022 application was filed.

Intent as of February 1, 2022

18. When the trademark application was filed on February 1, 2022, I intended for REASONABLY SHADY to continue developing beyond the podcast and merchandise we were already offering into additional consumer products.
19. Based on the discussions Gizelle and I had before filing, I intended to use REASONABLY SHADY in connection with candles and make-up products, including lip gloss and eye shadow.
20. At the time of filing, we had not yet selected final products or suppliers, finalized packaging or pricing, or established a launch date for those products. Our plan was to develop and source the additional products as part of the continued expansion of the REASONABLY SHADY brand, using third-party sources and the website and channels through which we were already offering and promoting REASONABLY SHADY products.
21. I did not include candles, lip gloss, eye shadow, or make-up in the application simply to prevent others from obtaining trademark rights or to reserve the REASONABLY SHADY name without an intention to use it. They were included because we intended to expand the existing REASONABLY SHADY brand into those product categories.

Subsequent Events

22. After the application was filed, our business priorities changed. As a small business operated primarily by Gizelle and me, we had limited time and resources to devote to developing additional product lines. We continued to devote our attention to the REASONABLY SHADY podcast and the products and services we were already offering. After this opposition proceeding was filed, we also were required to devote time and attention to this trademark litigation.
23. During that period, we did not move forward with the additional research, sourcing, and product-development work that would have been necessary to launch the contemplated candles and make-up products. We therefore did not progress to the point of selecting final products or suppliers, developing packaging, establishing pricing, or launching those products.
24. At my July 24, 2023 deposition, I testified that, “as far as the candles or the eye shadow, lip gloss, makeup, we don’t have any current plans for that, nothing in the foreseeable future.” That testimony described the status of our plans as of July 2023, and my reference to the “foreseeable future” looked forward from that date. I was not testifying about what Gizelle and I had discussed or intended as of February 1, 2022, nearly *eighteen months* earlier.
25. Immediately before that answer, I was asked whether we had plans to use REASONABLY SHADY for any of the products listed in the application for which we had not yet used the mark. I answered: “No current plans, but that’s not to say that we would never. But at the moment, we don’t have anything.” My testimony reflected the status of our plans in July 2023, after our business priorities had shifted. It was not intended to state that we never

contemplated offering those products or that I lacked an intent to use the REASONABLY SHADY mark for them when the application was filed.

26. Although we ultimately did not launch the contemplated candles and make-up products, including lip gloss and eye shadow, my intent as of February 1, 2022 was to use the REASONABLY SHADY mark in connection with those products as part of the continued expansion of the existing REASONABLY SHADY brand. That intent was based on the discussions Gizelle and I had before the application was filed and our experience developing and offering other REASONABLY SHADY merchandise.

27. I make this declaration voluntarily and based upon my personal knowledge.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: September 23, 2026, in Elkridge, MD.

A black rectangular box redacting the signature of Robyn Dixon.

Robyn Dixon

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

MARSHALL MATHERS III,

Opposer,

v.

**ROBYN DIXON, INDIVIDUAL;
GIZELLE BRYANT, INDIVIDUAL,**

Applicants.

Opposition No. 91283402

Serial No. 97248176

Mark: REASONABLY SHADY

**DECLARATION OF DOUGLAS PANZER IN SUPPORT OF OPPOSER’S MOTION
FOR SUMMARY JUDGMENT ON CLAIM OF LACK OF BONA FIDE INTENT TO
USE**

I, Douglas Panzer, hereby declare as follows:

1. I am an attorney with the law firm of Royer Cooper Cohen Braunfeld LLC, 101 West Elm Street, Suite 400, Conshohocken, Pennsylvania 19428, and a member in good standing of the bar of the Commonwealth of Pennsylvania and the State of New Jersey. Together with Manny D. Pokotilow of my firm, and co-counsel Rachel E. Epstein of Quinn Emanuel Urquhart & Sullivan, LLP, I am counsel of record for Opposer Marshall B. Mathers III (“Opposer”) in the above-captioned opposition proceeding.
2. I submit this declaration in support of Opposer’s Motion for Summary Judgment on Count III of the Second Amended Notice of Opposition, which alleges that Applicants Robyn Dixon and Gizelle Bryant (“Applicants”) lacked a bona fide intent to use the mark REASONABLY SHADY on the goods identified in International Classes 3 and 4 when they filed Application Serial No. 97/248,176 (the “Application”).
3. I have personal knowledge of the facts set forth in this declaration based on my role as counsel of record for Opposer, including my participation in and supervision of discovery in this proceeding, and my review of the discovery served and received, the documents produced, and the filings and orders in this proceeding as maintained on TTABVUE and in my firm’s files. If called as a witness, I could and would testify competently to these facts.
4. Unless otherwise noted, each exhibit attached to Opposer’s Motion for Summary Judgment and referenced by the same identifying exhibit letter in this declaration is a true and correct copy of the document it is described to be, as maintained in my firm’s files or as obtained from the USPTO’s TSDR and TTABVUE databases.
5. **The Application and Procedural History.** On February 1, 2022, Applicants filed the Application to register REASONABLY SHADY on the Principal Register under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), for goods and services that include “Eye-shadow; Lip gloss; Make-up” in International Class 3 and “Candles” in International Class 4. Attached as **Exhibit D**

is a true and correct copy of the TSDR record for the Application, including the Application as filed.

6. On February 14, 2023, Opposer filed his Notice of Opposition against the Application. Pursuant to the Board's institution order, discovery opened on April 26, 2023.

7. Through various resettings of the schedule, discovery in this proceeding remained open from April 26, 2023, until the September 30, 2026, deadline set in the Board's August 17, 2026 Order, a period of nearly three and a half years.

8. On July 17, 2026, Opposer filed a Motion to Amend the Notice of Opposition to add Count III, a claim that Applicants lacked a bona fide intent to use the mark on the Class 3 and Class 4 goods (43 TTABVUE).

9. On August 17, 2026, the Board granted Opposer's Motion to Amend, accepted the Second Amended Notice of Opposition, and reopened discovery solely as to the newly added claim through September 30, 2026. Attached as **Exhibit E** is a true and correct copy of the Board's August 17, 2026 Order, 47 TTABVUE.

10. The additional discovery period ordered by the Board ran from August 17, 2026, through September 30, 2026, approximately forty-four days, and was limited to the claim of lack of bona fide intent to use the REASONABLY SHADY mark on the Class 3 and Class 4 goods.

11. On August 27, 2026, Applicants filed their Answer to the Second Amended Notice of Opposition (48 TTABVUE).

12. **Opposer's Written Discovery and Applicants' Responses.** Opposer served on Applicants a First Set of Interrogatories and a First Set of Requests for Production of Documents and Things directed to, among other things, each of the goods identified in the Application, including the Class 3 and Class 4 goods.

13. On October 20, 2023, Applicants served their responses to Opposer's First Set of Interrogatories and First Set of Requests for Production. Attached as **Exhibit A** is a true and correct copy of Applicants' Responses to Opposer's First Set of Interrogatories. Attached as **Exhibit B** is a true and correct copy of Applicants' Responses to Opposer's First Set of Requests for Production.

14. In their interrogatory responses (Exhibit A), Applicants: (a) identified dates of first use only for hoodies (October 3, 2021) and podcasts (May 24, 2021), and no date of first use for any Class 3 or Class 4 good (Interrogatory No. 1); (b) identified pricing only for hats, shirts/tops, mugs, and autographed paddles, and no pricing, channels of trade, or geographic data for any Class 3 or Class 4 good (Interrogatory No. 2); (c) described marketing consisting of Instagram pages and word of mouth during podcasts, and identified no marketing or advertising for any Class 3 or Class 4 good (Interrogatory No. 3); (d) stated that they had not licensed the mark to any third party (Interrogatory No. 5); (e) stated, regarding evidence of the process of selection of the mark for each class of goods and services, "No such documents or facts exist" (Interrogatory No. 6); (f) stated "No such packaging exists" for the Class 3 and Class 4 goods (Interrogatory No. 9); (g) admitted that they conducted no trademark search or investigation before filing the Application (Interrogatory No. 12); and (h) stated that they were "not aware" of the ages, income levels, educational levels, or gender of purchasers of any goods or services bearing the mark (Interrogatory No. 15).

15. In their responses to Opposer's document requests (Exhibit B), Applicants: (a) produced no documents relating to any Class 3 or Class 4 good in response to Request Nos. 4, 5, 6, and 7 (goods sold or intended to be sold, pricing, first use dates, and marketing/advertising); (b) stated "No such documents exist" in response to Request Nos. 11 and 13 (consumer awareness and target audience); (c) objected to Request No. 18 (manufacturers of goods bearing the mark) and stated that they "do not have these documents"; and (d) in response to Request No. 33, which sought all documents evidencing a bona fide intent to use the mark, stated that "there are no written documents discussing the concept of bona fide intent," referring to evidence of use only for podcasts, hoodies, mugs, and wooden paddles.

16. I have reviewed every document Applicants produced in this proceeding. None of those documents relates to eye-shadow, lip gloss, make-up, or candles, except the opposed application itself. In particular, no produced document reflects any business plan, manufacturer or supplier communication or agreement, product formulation, pricing, marketing plan, packaging or label design, consumer research, licensing discussion, or other step toward offering any Class 3 or Class 4 good under the REASONABLY SHADY mark, whether dated before, on, or after February 1, 2022.

17. **Deposition of Robyn Dixon.** On July 24, 2023, counsel for Opposer took the deposition of Applicant Robyn Dixon. Attached as **Exhibit C** are true and correct copies of excerpts of the transcript of that deposition, including page 46, lines 3 through 12, where Ms. Dixon testified that "as far as the candles or the eye shadow, lip gloss, makeup, we don't have any current plans for that, nothing in the foreseeable future."

18. **No Supplementation After the Board Reopened Discovery.** Following the Board's August 17, 2026 Order, and at no time during the additional discovery period, did Applicants produce any new or supplemental documents, serve any supplemental or amended interrogatory responses, or serve any supplemental or amended responses to Opposer's document requests.

19. Before the date of this declaration, Applicants never served any supplemental discovery responses or supplemental document production in this proceeding concerning the Class 3 or Class 4 goods.

20. **The Bryant and Dixon Declarations.** During the additional discovery period, the only materials Applicants served concerning Count III were two declarations: the Declaration of Gizelle Bryant, bearing a signature date of September 25, 2026, and executed in Bethesda, Maryland, and the Declaration of Robyn Dixon, bearing a signature date of September 23, 2026, and executed in Elkridge, Maryland. These Declarations were delivered to me and my co-counsel by email from Applicants' counsel on September 25, 2026. Attached as **Exhibit F** is a true and correct copy of the Declaration of Gizelle Bryant as served on Opposer's counsel. Attached as **Exhibit G** is a true and correct copy of the Declaration of Robyn Dixon as served on Opposer's counsel.

21. No documents or exhibits were attached to or served with either the Bryant Declaration or the Dixon Declaration.

22. The additional discovery period closed on September 30, 2026. As of that date, and as of the date of this declaration, Applicants have not produced or identified in this proceeding any document evidencing any plan, arrangement, commitment, agreement, business strategy, marketing effort, supplier relationship, manufacturing inquiry, packaging design, product

formulation, or other action by Applicants to develop, produce, market, sell, or offer for sale eye-shadow, lip gloss, make-up, or candles under the REASONABLY SHADY mark.

Index of Exhibits

Exhibit	Description	Decl. ¶
A	Applicants' Responses to Opposer's First Set of Interrogatories (served Oct. 20, 2023)	13, 14
B	Applicants' Responses to Opposer's First Set of Requests for Production (served Oct. 20, 2023)	13, 15
C	Excerpts of Deposition Transcript of Robyn Dixon (July 24, 2023)	17
D	TSDR Record for Application Serial No. 97/248,176	5
E	Board Order Granting Motion to Amend (Aug. 17, 2026)	7, 9, 10
F	Declaration of Gizelle Bryant (Sept. 2026)	20, 21
G	Declaration of Robyn Dixon (Sept. 2026)	20, 21

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 19, 2026, in Conshohocken, Pennsylvania.



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing DECLARATION OF DOUGLAS PANZER IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT ON CLAIM OF LACK OF BONA FIDE INTENT TO USE, together with Exhibits A through G, was served on this 19th day of October, 2026, via email, upon counsel for Applicants:

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Douglas Panzer