

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILLAGIRL LLC,	:	
Plaintiff-Counterclaim Defendant,	:	11 CV 1017 (JSR)
-v-	:	
	:	
THE WELLA CORPORATION,	:	
Defendant-Counterclaim Plaintiff.	:	
-----X	:	

PLAINTIFF’S REPLY TO COUNTERCLAIMS

Plaintiff-Counterclaim Defendant Willagirl LLC (“Willagirl”), by and through its undersigned attorneys, replies to the Counterclaims of Defendant-Counterclaim Plaintiff The Wella Corporation (“Defendant” or “Wella”), as follows:

I.

REPLY TO COUNTERCLAIMS

1. The allegations contained in Paragraph 63 of the Counterclaims set forth conclusions of law to which no response is required. To the extent a response is required, Willagirl denies the allegations contained in Paragraph 63 of the Counterclaims.

2. The allegations contained in Paragraph 64 of the Counterclaims set forth conclusions of law to which no response is required. To the extent a response is required, Willagirl denies the allegations contained in Paragraph 64 of the Counterclaims.

3. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 65 of the Counterclaims, except admits that a controlling interest in Wella is currently owned by Proctor & Gamble.

4. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 66 of the Counterclaims.

5. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 67 of the Counterclaims.

6. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 68 of the Counterclaims, and refers the Court to the trademarks referenced to therein for a complete description thereof.

7. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 69 of the Counterclaims.

8. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 70 of the Counterclaims.

9. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 71 of the Counterclaims, and respectfully refers the Court to the trademark registrations for each of the trademarks cited in Paragraph 71 of the Counterclaims for a true and accurate statement of their contents.

10. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 72 of the Counterclaims.

11. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 73 of the Counterclaims.
12. Willagirl denies the allegations contained in Paragraph 74 of the Counterclaims, except admits that Willagirl has applied for registration of trademarks consisting of the word "Willa" and variations of the word "Willa."
13. Willagirl denies the allegations contained in Paragraph 75 of the Counterclaims.
14. Willagirl admits the allegations contained in Paragraph 76 of the Counterclaims, except denies that the Willagirl marks infringe any trademarks owned by Wella.
15. Willagirl denies the allegations contained in Paragraph 77 of the Counterclaims to the extent it is intended to suggest that the Willagirl marks infringe any trademarks owned by Wella.
16. Willagirl denies the allegations contained in Paragraph 78 of the Counterclaims, except admits that, by letter dated January 31, 2011, Wella demanded that Willagirl withdraw its trademark applications and cease use of the Willagirl marks.
17. Willagirl denies the allegations contained in Paragraph 79 of the Counterclaims, and refers the Court to the letter referenced therein for a complete and accurate statement of its contents.
18. Willagirl denies the allegations contained in Paragraph 80 of the Counterclaims.
19. Willagirl denies the allegations contained in Paragraph 81 of the Counterclaims.
20. Willagirl incorporates herein by reference its replies to the allegations contained in Paragraphs 66 through 80 of the Counterclaims.
21. Willagirl denies the allegations contained in Paragraph 83 of the Counterclaims.
22. Willagirl denies the allegations contained in Paragraph 84 of the Counterclaims.

23. Willagirl denies the allegations contained in Paragraph 85 of the Counterclaims.

24. Willagirl incorporates herein by reference its replies to the allegations contained in Paragraphs 66 through 84 of the Counterclaims.

25. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 87 of the Counterclaims, and respectfully refers the Court to the trademark registrations referenced therein for a true and accurate statement of their contents.

26. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 88 of the Counterclaims.

27. Willagirl denies the allegations contained in Paragraph 89 of the Counterclaims.

28. Willagirl denies the allegations contained in Paragraph 90 of the Counterclaims.

29. Willagirl denies the allegations contained in Paragraph 91 of the Counterclaims.

30. Willagirl incorporates herein by reference its replies to the allegations contained in Paragraphs 66 through 90 of the Counterclaims.

31. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 93 of the Counterclaims.

32. Willagirl denies the allegations contained in Paragraph 94 of the Counterclaims.

33. Willagirl denies the allegations contained in Paragraph 95 of the Counterclaims.

34. Willagirl denies the allegations contained in Paragraph 96 of the Counterclaims.

35. Willagirl denies the allegations contained in Paragraph 97 of the Counterclaims.

36. Willagirl incorporates herein by reference its replies to the allegations contained in Paragraphs 66 through 96 of the Counterclaims.

37. Willagirl denies the allegations contained in Paragraph 99 of the Counterclaims.

38. Willagirl denies the allegations contained in Paragraph 100 of the Counterclaims.

39. Willagirl denies the allegations contained in Paragraph 101 of the Counterclaims.

40. Willagirl denies the allegations contained in Paragraph 102 of the Counterclaims.

41. Willagirl incorporates herein by reference its replies to the allegations contained in Paragraphs 66 through 101 of the Counterclaims.

42. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 104 of the Counterclaims.

43. Willagirl denies the allegations contained in Paragraph 105 of the Counterclaims.

44. Willagirl denies the allegations contained in Paragraph 106 of the Counterclaims.

45. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 107 of the Counterclaims.

46. Willagirl denies the allegations contained in Paragraph 108 of the Counterclaims.

47. Willagirl denies the allegations contained in Paragraph 109 of the Counterclaims.

48. Willagirl denies the allegations contained in Paragraph 110 of the Counterclaims.

49. Willagirl incorporates herein by reference its replies to the allegations contained in Paragraphs 66 through 109 of the Counterclaims.

50. The allegations contained in Paragraph 112 of the Counterclaims set forth conclusions of law to which no response is required.

51. Willagirl admits the allegations contained in the first sentence of Paragraph 113 of the Counterclaims. Willagirl denies the remaining allegations contained in Paragraph 113 of the Counterclaims, and respectfully refers the Court to the letter referenced therein for a complete and accurate statement of its contents.

52. Willagirl lacks sufficient knowledge or information to determine the truth or falsity of the allegations contained in Paragraph 114 of the Counterclaims, except admits that Willagirl brought an action asking this Court for a declaratory judgment that Willagirl is not infringing on any trademark owned by Wella.

II.

AFFIRMATIVE DEFENSES

Willagirl hereby pleads the following affirmative defenses to the counterclaims of Wella:

1. Each of Wella's counterclaims fails to state a claim upon which relief can be granted.
2. Wella lacks standing because Wella has not been and will not be damaged by Willagirl's use of the Willagirl marks.
3. Wella's counterclaims are frivolous, having been interposed for the improper purpose of harassing plaintiff and increasing the cost of litigation.
4. Wella's counterclaims constitute a willful and deliberate abuse of the rights conferred to it under the trademark laws and an attempt to enforce trademark rights beyond a reasonable interpretation of the scope of the rights granted to it.
5. Wella's counterclaims are barred, in whole or in part, by the equitable doctrines of laches, estoppel and unclean hands.
6. Wella's counterclaims are barred, in whole or in part, by the doctrine of acquiescence.

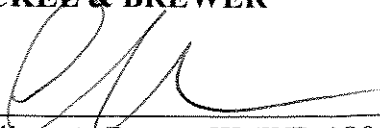
WHEREFORE, Willagirl respectfully requests that the Court enter an Order: (i) dismissing each of Wella's counterclaims with prejudice; (ii) awarding Willagirl its reasonable attorneys' fees, experts fees and other costs and expenses incurred; and (iii) awarding Willagirl such other and further relief that the Court deems just and proper.

Dated: New York, New York
April 21, 2011

Respectfully submitted,

BICKEL & BREWER

By: _____


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**ATTORNEYS FOR PLAINTIFF
WILLAGIRL, LLC**