**THE TRADE MARKS ACT (CAP. 332)**

**IN THE MATTER OF** Singapore Trade Mark Application No. 40201988888Z for

**"EYEBALL"**

in Class 14 in the name of SafeDistance Co., Ltd. (the "**Applicant**")

**AND**

**OPPOSITION** thereto by Mask Inc. (the "**Opponent**")

**COUNTER-STATEMENT**

We, **SafeDistance Co., Ltd.**, a company incorporated under the laws of the Republic of Korea with registered address at 8th floor, Seunneung-ro 145 Gil 7, Kangnamku, Seoul, hereby give notice that the following are grounds on which we rely upon in resisting the opposition raised by Mask Inc., the Opponent, against the registration of Singapore Trade Mark Application No. 40201988888Z for the mark “EYEBALL” in Class 14 (the “**Application Mark”**). Save as otherwise defined herein, the Applicant adopts the defined terms as used in the Notice of Opposition dated 25 March 2020:

1. The Applicant has no knowledge of the matters averred to in Paragraphs 1 to 3 of the Notice of Opposition and puts the Opponent to strict proof thereof.
2. Paragraph 4 of the Notice of Opposition is not admitted and the Applicant puts the Opponent to strict proof thereof that it is the rightful proprietor of the marks listed in Paragraph 4 of the Notice of Opposition.
3. The Applicant has no knowledge of the matters averred to in Paragraph 5 of the Notice of Opposition and puts the Opponent to strict proof thereof regarding the use and promotion of the EYEPAD Mark and EYEWATCH Mark.
4. The Applicant denies that the compared marks are similar, that the compared goods are identical or similar, or that there is a likelihood of confusion as alleged by the Opponent in Paragraphs 6 to 11 of the Notice of Opposition.
5. **Comparison of the Application Mark against the EYEPAD Mark**
6. The Application Mark is visually different from the EYEPAD Mark. The Application Mark consists of seven letters while the EYEPAD Mark consists of only six letters. In addition, the EYEPAD Mark includes the word “PAD” which is not found in the Application Mark.
7. The Application Mark is aurally different from the EYEPAD Mark, in particular the second syllables in the compared marks sound completely different. A consumer who hears the Application Mark “EYEBALL” will have no reason to think of the EYEPAD Mark, or *vice versa*.
8. Conceptually, the Application Mark conveys a different meaning from the EYEPAD Mark. The Application Mark consists of an English language dictionary word, which means “*the round part of the eye of a vertebrate, within the eyelids and socket*” or to “*look or stare at closely*”. In contrast, the EYEPAD Mark consists of a term which does not appear in the dictionary and has no inherent meaning.
9. The goods covered by the Application Mark are in Class 14, which are clearly different from and do not overlap with those covered by the EYEPAD Mark, which are in Class 9.
10. Due to the differences in the marks and goods, there is no likelihood of confusion on the part of the public.
11. **Comparison of the Application Mark against the EYEWATCH Mark**
12. The Application Mark is visually different from the EYEWATCH Mark. The Application Mark consists of seven letters while the EYEWATCH Mark consists of eight letters. In addition, the EYEWATCH Mark includes the word “WATCH” which is not found in the Application Mark.
13. The Application Mark is aurally different from the EYEWATCH Mark, in particular the second syllables in the compared marks sound completely different. A consumer who hears the Application Mark “EYEBALL” will have no reason to think of the EYEWATCH Mark, or *vice versa*.
14. Conceptually, the Application Mark consists of a single known word in the English language, namely “EYEBALL”. By contrast, the EYEWATCH Mark is an invented word which does not appear in the dictionary and has no inherent meaning.
15. The goods covered by the Application Mark are in Class 14, which are clearly different from those covered by the EYEWATCH Mark, which are in Class 9.
16. Due to the differences in the marks and goods, there is no likelihood of confusion on the part of the public.
17. Save as hereinbefore expressly admitted, the Applicant denies each and every allegation contained in the Notice of Opposition as if the same is set forth herein and traversed in seriatim.
18. For all of the above reasons, the Applicant humbly prays that the Opposition be dismissed with costs to the Applicant and the Application Mark be allowed to proceed to registration.

Dated this 6th day of April 2020

**SOLICITORS FOR THE APPLICANT**

**SAHIN, TUERCI AND PARTNERS**