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

Proceeding	91191016
Party	Defendant Kendal M. Sheets
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Submission	Motion to Amend/Amended Answer or Counterclaim
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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INTELLECTUAL RESERVE, INC.	)	
Plaintiff	)	Cancellation No. 91191016
v.	)	
SHEETS, KENDAL M .	)	
Defendant	)	

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**APPLICANT’S AMENDED ANSWER AND COUNTERCLAIM**

Applicant, Kendal M. Sheets (Applicant) for his answer to the Notice of Opposition filed by Intellectual Reserve, Inc. (Opposer) against application for registration of Applicant’s trademark SECRET MORMON, Serial No. 77337325 filed November 27, 2007 and published in the Official Gazette on June 30, 2009, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant admits the allegations thereof.
2. Answering paragraph 2 of the Notice of Opposition, Applicant denies each and every allegation contained therein.
3. Answering paragraph 3 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.
4. Answering paragraph 4 of the Notice of Opposition, Applicant denies each and

every allegation contained therein.

5. Answering paragraph 5 of the Notice of Opposition, Applicant denies each and every allegation contained therein.
6. Answering paragraph 6 of the Notice of Opposition, Applicant denies each and every allegation contained therein.
7. Answering paragraph 7 of the Notice of Opposition, Applicant admits the allegations thereof.
8. Answering paragraph 8 of the Notice of Opposition, Applicant admits the allegations thereof.
9. Answering paragraph 9 of the Notice of Opposition, Applicant admits the allegations thereof.
10. Answering paragraph 10 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.
11. Answering paragraph 11 of the Notice of Opposition, Applicant denies each and every allegation contained therein.
12. Answering paragraph 12 of the Notice of Opposition, Applicant denies each and every allegation contained therein.
13. Answering paragraph 13 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

**BY WAY OF AFFIRMATIVE DEFENSES**

14. The relief sought in the Notice of Opposition regarding registered trademark numbers 2913694, 2766221, 2883572, 3239919, and serial number 77179068 for MORMON.ORG is barred because these marks lack secondary meaning and are not inherently distinctive and are therefore not entitled to trademark protection, were procured by fraud, unclean hands, and a false designation of origin.
15. The relief sought in the Notice of Opposition regarding registered trademark numbers 2913694, 2766221, 2883572, 3239919, and serial number 77179068 for MORMON.ORG is barred because third parties have used similar marks for similar goods and therefore the marks are weak and entitled to limited, if any, protection.

**APPLICANT'S COUNTERCLAIM FOR CANCELLATION OF MARKS:**

Applicant believes that it is and will continue to be damaged by Opposer's pleaded Registrations numbers 1527447, 1524555 2913694, 2766221, 2883572, 3239919, and serial number 77179068. Applicant and Counter-Plaintiff Kendal M. Sheets thereby has a "direct and personal stake" in the present controversy, and hereby counterclaims for cancellation of said registrations.

Just as Christian, Jewish, Muslim, or Buddhist is not a particular organization but instead a religious or belief system, Mormon is not the name of a particular organization but instead a name of a religious or belief system. The Mormon religion did not oppose Applicant's mark, instead the particular organization of the Church of Jesus Christ of Latter-day Saints, which is formed under the laws of the state of Utah and headquartered in Salt Lake City, is the Opposer. Creating a monopoly of a term used for an entire religious or belief system is something the trademark laws were never intended to do.

A grounds for these counterclaims, is alleged that:

1. The term MORMON has been widely used for over a century by the media and the public to refer to people who adhere to a set of beliefs first espoused by Joseph Smith, Jr. in 1830.
2. Several religious organizations, including *The Community of Christ* (known from 1872 to 2001 as the *Reorganized Church of Jesus Christ of Latter Day Saints (RLDS)*), the *Apostolic United Brethren*, the *Fundamentalist Church of Jesus Christ of Latter Day Saints*, the *Latter Day Church of Christ (Kingston clan)*, the *Church of Christ (Temple Lot)*, the *True and Living Church of Jesus Christ of Saints of the Last Days*, and the *Unite Order Effort* are comprised of followers of Joseph Smith, Jr. and are therefore Mormons.

3. The term MORMON is generic in that the primary significance of the term to the relevant public is as the name for followers of Joseph Smith, Jr.: “MORMON, a member of any of several denominations and sects, the largest of which is the Church of Jesus Christ of Latter-Day Saints, that trace their origins to a religion founded by Joseph Smith in the United States about 1830.” (see *Merriam-Webster’s Encyclopedia of World Religions*, pub. Merriam-Webster, Incorporated, Springfield, Massachusetts, p. 750 (1999)).
4. Applicant/Counter-Plaintiff, Kendal M. Sheets, is a resident of the city of McLean, Virginia, having an address at 1855 Macarthur Drive, Mclean, Virginia, 22101.
5. Opposer/Counter-Defendant, Intellectual Reserve, Inc., is a Corporation organized under the laws of the State of Utah, having an address as indicated on the subject registrations of 60 East North Temple, Salt Lake City, Utah, 84150. Opposer/Counter-Defendant is a wholly-owned subsidiary of, and when communicating and transacting with the Trademark Office has admitted that it is deemed to include, The Church of Jesus Christ of Latter-day Saints, also headquartered in Salt Lake City, Utah.
6. Opposer/Counter-Defendant is indicated as the owner of the following registrations:
  - 1527447 for “MORMON HANDICRAFT” issued February 28, 1989 in Class 042 having a goods and services description “retail catalog mail order and telephone order services for craft items and materials, dolls, baby clothes, toys, young girls’ clothing, quilts, personal gifts, needlework, porcelain statues and the like.”
  - 1524555 for “MORMON HANDICRAFT” issued February 14, 1989 in Class 024 having a goods and services description “fabrics, linens, bats, towels, dish cloths, pillowcases, afghans, lap robes, quilts, quilt kits, and wall hangings, table covers, soft gifts, and hem-stitched items of textile material.”
  - 2913694 for “MORMON TABERNACLE CHOIR” and design issued December

21, 2004 in Class 009 having a goods and services description “prerecorded audiotapes, videotapes, compact discs, and digital video discs featuring musical entertainment incorporating religious, family, and educational themes,” in Class 016 having a goods and services description “publications, namely, books featuring musical performances and featuring religious, family, and educational themes,” and in Class 041 having a goods and services description “entertainment services, namely, live performances by a musical performance group.”

- 2766231 for “MORMON TABERNACLE CHOIR” issued September 23, 2003 in Class 009 having a goods and services description “Pre-recorded audio and audio-video cassette tapes and compact discs featuring musical entertainment incorporating religious, family, and educational themes,” and in Class 041 having a goods and services description “entertainment services, namely, live performances by a musical performance group.”
- 2883572 for “BOOK OF MORMON” issued September 14, 2004 in Class 009 having a goods and services description “pre-recorded audio and video cassette tapes and compact discs featuring religious content,” and in Class 016 for Printed matter; namely religious books, religious instructional pamphlets, and brochures; photographs, artist materials, instructional and teaching material, posters, engravings, prints of paintings, books.”
- 3239919 for “MORMON” issued May 8, 2007 in Class 041 having a services description “Educational services, namely, providing classes, conferences, and institutes in the fields of history and religion,” and in Class 042 for “genealogy services.”

7. Opposer/Counter-Defendant is indicated as the owner of the application serial number 77179068 for “MORMON.ORG” with application date May 11, 2007 and allowance as intent-to-use on April 7, 2009 in Class 041 for “Providing information and instruction in the fields of religion, ethics, and moral and religious values; providing on-line religious instruction promoting family values; providing information in the field of parenting concerning education and entertainment of children; and providing courses of instruction in the field of marital relations.”

8. On November 27, 2007, Applicant/Counter-Plaintiff filed an intent-to-use trademark application to register the word mark SECRET MORMON. Shortly thereafter, Applicant was informed by Examiner Peete that a disclaimer was required for the word “Mormon” in the application because the term likely described the field/subject matter of the applicant’s goods,” further stating “The Office can require an applicant to disclaim exclusive rights to an unregistrable part of a mark, rather than refuse registration of the entire mark.” Applicant filed a disclaimer, disclaiming the term “MORMON.”
9. Opposer’s Registration No 1527447 for “MORMON HANDICRAFT is generic as applied to the goods and services description “retail catalog mail order and telephone order services for craft items and materials, dolls, baby clothes, toys, young girls’ clothing, quilts, personal gifts, needlework, porcelain statues and the like, ” in Class 042. Accordingly ,this mark should have never been registered under 15 U.S.C. 1052(e)(1) or (5), Lanham Act section 2(e)(1), and should be cancelled under of the Lanham Act, Section, 14(1) or (3); or 15 U.S.C. 1064(1) or (31), et seq.
10. Opposer’s Registration No. 1524555 for “MORMON HANDICRAFT” is generic as applied to the goods and services description “fabrics, linens, bats, towels, dish cloths, pillowcases, afghans, lap robes, quilts, quilt kits, and wall hangings, table covers, soft gifts, and hem-stitched items of textile material.” in Class 024. Accordingly ,this mark should have never been registered under 15 U.S.C. 1052(e)(1) or (5), Lanham Act section 2(e)(1), and should be cancelled under of

the Lanham Act, Section, 14(1) or (3); or 15 U.S.C. 1064(1) or (31), et seq.

11. The word portion of Opposer's Registration No. 2913694 for "MORMON TABERNACLE CHOIR" and design is generic as applied to goods and services of "prerecorded audiotapes, videotapes, compact discs, and digital video discs featuring musical entertainment incorporating religious, family, and educational themes," in Class 016 and is generic as applied to the goods and services description "publications, namely, books featuring musical performances and featuring religious, family, and educational themes," and in Class 041 having a goods and services description "entertainment services, namely, live performances by a musical performance group," in Class 009. Accordingly, this mark should have never been registered under 15 U.S.C. 1052(e)(1) or (5), Lanham Act section 2(e)(1), and should be cancelled under of the Lanham Act, Section, 14(1) or (3); or 15 U.S.C. 1064(1) or (31), et seq.
12. Opposer's Registration No. 2766231 for "MORMON TABERNACLE CHOIR" is generic as applied to the goods and services description "Pre-recorded audio and audio-video cassette tapes and compact discs featuring musical entertainment incorporating religious, family, and educational themes," in Class 041, and is generic as applied to the goods and services description "entertainment services, namely, live performances by a musical performance group," in Class 009. Accordingly, this mark should have never been registered under 15 U.S.C. 1052(e)(1) or (5), Lanham Act section 2(e)(1), and should be cancelled under of the Lanham Act, Section, 14(1) or (3); or 15 U.S.C. 1064(1) or (31), et seq.

13. Opposer's Registration No. 2883572 for "BOOK OF MORMON" is generic as applied to the goods and services description "pre-recorded audio and video cassette tapes and compact discs featuring religious content," in Class 009, and is generic for the goods and services "Printed matter; namely religious books, religious instructional pamphlets, and brochures; photographs, artist materials, instructional and teaching material, posters, engravings, prints of paintings, books," and in Class 016. Accordingly, this mark should have never been registered under 15 U.S.C. 1052(e)(1) or (5), Lanham Act section 2(e)(1), and should be cancelled under of the Lanham Act, Section, 14(1) or (3); or 15 U.S.C. 1064(1) or (31), et seq.
14. Opposer's Registration No. 3239919 for "MORMON" is generic as applied to the services description "Educational services, namely, providing classes, conferences, and institutes in the fields of history and religion," in Class 041 and is generic as applied to "genealogy services," in Class 042 and accordingly should have never been registered under 15 U.S.C. 1052(e)(1) or (5), Lanham Act section 2(e)(1), and should be cancelled under of the Lanham Act, Section, 14(1) or (3). Accordingly, this mark should have never been registered under 15 U.S.C. 1052(e)(1) or (5), Lanham Act section 2(e)(1), and should be cancelled under of the Lanham Act, Section, 14(1) or (3); or 15 U.S.C. 1064(1) or (31), et seq.
15. Opposer's Registration No. 2766231 for "MORMON TABERNACLE CHOIR" merely describes or is merely descriptive of the services or goods being offered under Opposer's registrations, and thereby should not have been registered under

- 15 U.S.C. 1052(e)(1), Lanham Action section 2(e)(1), and should be cancelled under the Lanham Action, section 14(1), or 15 U.S.C. 1064(1) et seq.
16. Alternatively, Opposer's Registration No. 2883572 for "BOOK OF MORMON" merely describes or is merely descriptive of the services or goods being offered under Opposer's registrations, and thereby should not have been registered under 15 U.S.C. 1052(e)(1), Lanham Action section 2(e)(1), and should be cancelled under the Lanham Action, section 14(1), or 15 U.S.C. 1064(1) et seq.
  17. Alternatively, Opposer's Registration No. 3239919 for "MORMON" merely describes or is merely descriptive of the services or goods being offered under Opposer's registrations, and thereby should not have been registered under 15 U.S.C. 1052(e)(1), Lanham Action section 2(e)(1), and should be cancelled under the Lanham Action, section 14(1), or 15 U.S.C. 1064(1) et seq.
  18. During application for Registration No. 1527447 for "MORMON HANDICRAFT" Opposer's predecessors-in-interest and its representatives knowingly made false statements and/or omissions to the Trademark Office, including not telling the Examiner that the Church of Jesus Christ of Latter-day Saints ("LDS Church"), headquartered in Salt Lake City, is only one of a number of "Mormon" religious sects or splinter groups and that the LDS Church has no rights to the exclusive use of the term "Mormon," made false and deceptive statements regarding connections of ownership, and made false statements of use regarding goods and services for the application.
  19. Registration No. 1527447 was procured by Opposer's knowingly and false or

fraudulent statements or omissions, which were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, grant said registration to Opposer.

20. On January 27, 1995, Mr. Carl Johnson, representative for Opposer's predecessor-in-interest filed a Declaration of Use and Incontestability Under Sections 8 & 15 of the Trademark Act for Registration No. 1527447. A single page specimen was filed with the declaration to show evidence of services used under the registration. The specimen illustrated the word mark with hand-drawings of items such as a teddy-bears, thread and needle, and scissors. After rejection, an undated catalogue showing various handicraft items such as dolls, quilts, toys, and clothes was submitted as evidence of use of the services. On February 27, 2009, Opposer filed a Declaration of Use and Incontestability Under Sections 8 & 15 of the Trademark Act with a single specimen showing the words of the mark on a sign reading "Valentines Sweetheart Fabric Sale."
21. Opposer's Registration No. 1527447 has been maintained by Opposer's knowingly false or fraudulent statements or omissions, which were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to approve the Declaration of Use and Incontestability Under Sections 8 & 15 of the Trademark Act, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, approve Opposer's Declaration of use and Incontestability Under Sections 8 & 15 of the Trademark Act.

22. Opposer is therefore not entitled to continue registration No. 1527447 since Opposer committed fraud in the procurement and/or maintenance of the subject registration, and said registration is therefore void.
23. Opposer is therefore not entitled to continue registration No. 1527447 since Opposer committed inequitable conduct having unclean hands in the making of false statements, including false declarations of origin, false connection, and deception, in the procurement and/or maintenance of the subject registration, and said registration is therefore void.
24. During application for Opposer's Registration No. 1524555 for "MORMON HANDICRAFT" Opposer's predecessors-in-interest and its representatives knowingly made false statements and/or omissions to the Trademark Office, including not telling the Examiner that the Church of Jesus Christ of Latter-day Saints ("LDS Church"), headquartered in Salt Lake City, is only one of a number of "Mormon" religious sects or splinter groups and that the LDS Church has no rights to use the term "Mormon" exclusively; made false and deceptive statements regarding connections of ownership, and made false statements of use regarding goods and services for the application.
25. Registration No. 1524555 was procured by Opposer's predecessors-in-interest using knowingly and false or fraudulent statements or omissions, which were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, grant

said registration.

26. In January 1995, a Declaration of use and Incontestability Under Sections 8 & 15 of the Trademark Act for Registration No. 1524555 was filed showing an undated front and back of a catalogue and table of contents entitled “Mormon Handicraft The Utah Sampler Quilt” along with an undated, unattached label showing “Mormon Handicrafts.” In February, 2009, Opposer filed a Declaration of use and Incontestability Under Sections 8 & 15 of the Trademark Act for Registration No. 1524555 showing an unattached label that reads “Mormon Handicrafts Classics.”
27. Opposer’s Registration No. 1524555 has been maintained by Opposer’s knowingly false or fraudulent statements or omissions, which were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to approve the Declaration of Use and Incontestability Under Sections 8 & 15 of the Trademark Act, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, approve Opposer’s Declaration of use and Incontestability Under Sections 8 & 15 of the Trademark Act.
28. Opposer is therefore not entitled to continue registration No. 1524555 since Opposer committed fraud in the procurement and/or maintenance of the subject registration, and said registration is therefore void.
29. Opposer is therefore not entitled to continue registration No. 1524555 since Opposer committed inequitable conduct having unclean hands in the making of false statements and/or omissions, including false declarations of origin, false

connection, and deception, in the procurement and/or maintenance of the subject registration, and said registration is therefore void.

30. In application for Registration No. 2913694 for “MORMON TABERNACLE CHOIR” and design mark Opposer alleged use for services from 1893 and use for goods from 1973. Opposer alleged in an unsupported declaration that its mark has acquired distinctiveness under Section 2(f). Opposer’s predecessors-in-interest and its representatives knowingly made false statements and/or omissions to the Trademark Office, including not telling the Examiner that the Church of Jesus Christ of Latter-day Saints (“LDS Church”), headquartered in Salt Lake City, is only one of a number of “Mormon” religious sects or splinter groups and that the LDS Church of Salt Lake City has no rights to use the term “Mormon” exclusively; made false and deceptive statements regarding connections of ownership, and made false statements of use regarding goods and services for the application.
31. Registration No. 2913694 was procured by Opposer’s knowingly and false or fraudulent statements and/or omissions, which statements were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, grant said registration to Opposer.
32. Opposer is therefore not entitled to continue registration No. 2913694 since Opposer committed fraud in the procurement of the subject registration, and said

registration is therefore void.

33. Opposer is therefore not entitled to continue registration No. 2913694 since Opposer committed inequitable conduct having unclean hands in the making of false statements, including false declarations of origin, in the procurement of the subject registration, and said registration is therefore void.
34. Opposer's Registration No. 2766231 for "MORMON TABERNACLE CHOIR" services in 1893 and commerce goods in 1973. In an Office Action, Opposer was initially required to disclaim "TABERNACLE CHOIR" by the Examiner. Opposer responded with allegations in a declaration that its mark has acquired distinctiveness under Section 2(f), submitting specimens from 2001-2009 as evidence, and the Examiner apparently dropped the required disclaimer. Opposer's predecessors-in-interest and its representatives knowingly made false statements and/or omissions to the Trademark Office, including not telling the Examiner that the Church of Jesus Christ of Latter-day Saints ("LDS Church"), headquartered in Salt Lake City, is only one of a number of "Mormon" religious sects or splinter groups and that the LDS Church has no rights to use the term "Mormon" exclusively; made false and deceptive statements regarding connections of ownership, and made false statements of use regarding goods and services for the application.
35. Registration No. 2766231 was procured by Opposer's knowingly and false or fraudulent statements, which statements were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said

registration, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, grant said registration to Opposer.

36. Opposer is therefore not entitled to continue registration No. 2766231 since Opposer committed fraud in the procurement of the subject registration, and said registration is therefore void.
37. Opposer is therefore not entitled to continue registration No. 2766231 since Opposer committed inequitable conduct having unclean hands in the making of false statements, including false declarations of origin, in the procurement of the subject registration, and said registration is therefore void.
38. In Opposer's application of Registration No. 2883572 for "BOOK OF MORMON," both Mr. Roger Peterson and Mr. Michael Krieger submitted unsupported declarations stating that Opposer and its predecessors have used the mark "Book of Mormon" since 1830 in class 16 and since 1977 in class 09 in commerce in the United States, and declared that "BOOK OF MORMON" represents Opposer as the source of the goods. Neither Mr. Peterson nor Opposer informed the Examiner that Opposer and predecessors did not exist in 1830, nor did either explain how Opposer and the LDS Church, neither of which existed commercially in the United States prior to the State of Utah, could have used the mark back to 1830. Specimens for evidence of use date to the year 2000.
39. Opposer and its predecessors are not the author of the "Book of Mormon."
40. Opposer's predecessors-in-interest and its representatives knowingly made false statements and/or omissions to the Trademark Office, including not telling the

Examiner that the Church of Jesus Christ of Latter-day Saints, headquartered in Salt Lake City, is only one of a number of “Mormon” religious sects or splinter groups and that the LDS Church has no rights to use the term “Book of Mormon” or “Mormon” exclusively; made false and deceptive statements regarding connections of ownership, and made false statements of use regarding goods and services for the application.

41. Registration No. 2883572 was procured by Opposer’s knowingly and false or fraudulent statements and/or omissions, which were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, grant said registration to Opposer.
42. Opposer is therefore not entitled to continue registration No. 2883572 since Opposer committed fraud in the procurement of the subject registration, and said registration is therefore void.
43. Opposer is therefore not entitled to continue registration No. 2883572 since Opposer committed inequitable conduct having unclean hands in the making of false statements, including false declarations of origin, in the procurement of the subject registration, and said registration is therefore void.
44. During procurement of the Opposer’s Registration No. 3239919 for “MORMON”, oppose alleged use as early as 1920 in class 41 and 1950 in class 42. Opposer submitted specimens from 2004 as evidence of use of the mark in 2002. Opposer declared that for all classes that “Mormon” indicates an origin of

Opposer, the Church of Jesus Christ of Latter-day Saints. Opposer affirmatively alleged under oath that it is the only organization allowed to use the term “Mormon.”

45. Registration No. 3239919 was procured by Opposer’s knowingly and false or fraudulent statements, which statements were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, grant said registration to Opposer.
46. Opposer is therefore not entitled to continue registration No. 3239919 since Opposer committed fraud in the procurement of the subject registration, and said registration is therefore void.
47. Opposer is therefore not entitled to continue registration No. 3239919 since Opposer committed inequitable conduct having unclean hands in the making of false statements, including false declarations of origin, in the procurement of the subject registration, and said registration is therefore void.

WHEREFORE,

Applicant/Counter-Plaintiff respectfully requests that this Counterclaim to Cancel Opposer’s pleaded Registration Nos. 1524555, 1527447, 2766231, 2913694, 2883572, and 3239919 be granted and that said registrations relied upon by Opposer/Counter-Defendant in this opposition be cancelled, and for such further relief as the Commissioner deems appropriate.

Respectfully Submitted;

Dated: 19 July, 2010

/Kendal M. Sheets/  
Kendal M. Sheets  
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703-489-8937

Applicant/Counter-Plaintiff

### CERTIFICATION OF SERVICE

I do hereby certify that on this 19<sup>th</sup> day of July, 2009, I served a copy of the above and foregoing pleading, **APPLICANT'S AMENDED ANSWER AND COUNTERCLAIM**, on all counsel for all parties to this proceeding, namely

Mr. Douglas R. Bush  
Mr. Michael A. Grow  
Arent Fox LLP  
1050 Connecticut Ave.NW  
Washington, DC 20036

Mr. Todd Zenger  
Kirton & McConkie  
1800 Eagle Gate Tower  
60 E. South Temple  
Salt Lake City, UT 84111

by mailing same via United States Mail, properly addressed and first class postage prepaid.

/Kendal M. Sheets/      July 19, 2020  
Kendal Sheets                      Date