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

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| Proceeding | 91211195 |
| Party | Defendant Anderson Silva Enterprises, Inc. |
| Correspondence Address | NATHAN GABLE 341 E ALONDRA BLVD GARDENA, CA 90248-2809 npgesq@aol.com |
| Submission | Answer |
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| Date | 07/29/2013 |
| Attachments | ASE Answer To Opposition 91211195.pdf(350177 bytes) |

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

In the Matter of Trademark Application Serial No.
85809615
Published in the *Official Gazette* May 21, 2013

STEVE MALNICK,

Opposer,

v.

ANDERSON SILVA ENTERPRISES, INC.

Applicant.

Opposition No.

91211195

**APPLICANT'S ANSWER
TO NOTICE OF OPPOSITION, AFFIRMATIVE DEFENSES**

Applicant, Anderson Silva Enterprises, Inc. ("ASE" or "Applicant"), for its answer to the Notice of Opposition filed by Steve Malnick ("Opposer") against application for registration of ASE's trademark AS in stylized letters, Serial No. 85809615 filed December 21, 2012, and published in the Official Gazette of May 21, 2013 (the "Mark"), pleads and avers as follows:

1. Applicant denies knowledge and information sufficient to admit or deny the allegations of Paragraph 1 of Opposer's Notice of Opposition.
2. Applicant denies knowledge and information sufficient to admit or deny the allegations of each sentence in Paragraph 1 of Opposer's Notice of Opposition. (The Notice of Opposition consists of only one paragraph.)

AFFIRMATIVE DEFENSES

First Affirmative Defense

Opposer fails to state a claim upon which relief can be granted.

Second Affirmative Defense

As a result of Applicant's continuous use of the Mark since the time of Applicant's adoption thereof, the Mark has developed significant goodwill among the consuming public and consumer acceptance of the services offered by Applicant in conjunction with the Mark. Such goodwill and widespread usage has caused the Mark to acquire distinctiveness with respect to Applicant, and caused the Mark to become a valuable asset of Applicant.

Third Affirmative Defense

There is no likelihood of confusion, mistake or deception because, *inter alia*, the Mark and the alleged trademark of Opposer are not confusingly similar.

Fourth Affirmative Defense

Alternatively, any similarity between the Mark and Opposer's alleged trademark is restricted to that portion of the Mark consisting of the letters "AS" which is not distinctive.

Fifth Affirmative Defense

Opposer's rights in and to the portion of its alleged trademark are generic or, in the alternative, merely descriptive of the goods or services offered under the mark. Opposer's alleged mark is therefore inherently unprotectable absent acquired distinctiveness, which the alleged mark lacks.

Sixth Affirmative Defense

Applicant has been using the Mark and developing consumer recognition and goodwill therein since at least July 7, 2012, such use being open, notorious and known to Opposer and such

knowledge, in turn, being known to Applicant. During this time Opposer failed to take meaningful action to assert the claims on which it bases this Opposition, on which inaction Applicant has relied to its detriment. Opposer's claims are consequently barred by the doctrines of laches, acquiescence and estoppel.

Seventh Affirmative Defense

Opposer has unclean hands, by virtue of the measures taken by Opposer, to intentionally and wrongfully using the initial's ("AS" of the Mark stands for Anderson Silva) of the one of the most widely known mixed martial artist and using them in the same market place as ASE.

Eighth Affirmative Defense

The Mark and Opposer's alleged mark are not likely to disparage or falsely suggest a trade connection between Opposer and ASE.

Ninth Affirmative Defense

The Mark will not cause dilution of Opposer's alleged mark.

Applicant hereby appoints Nathan Gable, a member of the Bar of the State of California, with the following address: 341 East Alondra Blvd., Gardena, California 90248, telephone number: 310-980-0822 and E-mail npgesq@aol.com, to act as attorneys in the matter of the opposition identified above, to prosecute said opposition, to transact all business in the Patent and Trademark Office, and in the United States courts connected with the opposition, to sign its name to all papers which are hereinafter to be filed in connection therewith, and to receive all communications relating to the same.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board deny the

Opposition and permit registration of Applicant's proposed mark in Application Serial Number 85809615 in the United States Patent and Trademark Office.

Dated: Los Angeles, California
July 29, 2013

LAW OFFICES OF NATHAN GABLE
341 East Alondra Blvd.
Gardena, California 90248
Tel: (310) 980-0822

A handwritten signature in black ink, appearing to read 'N. Gable', written over a horizontal line.

Nathan Gable (SBN 188610)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of July, 2013, a true copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES was served in the following manner:

VIA EMAIL AND FIRST CLASS MAIL

Steve Malnick
Anarchy Sports
18 Rhine Ct.
Clayton, CA 94517

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Nathan Gable (SBN 18861)