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

Proceeding	91214882
Party	Defendant Wise, Kelley
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5 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
6 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

7 In re: *Application Serial No. 85/932,969*
8 Applicant: Kelley Wise
9 Mark: **PARROT JACK**
10 Published: October 15, 2013, in the Official Gazette

11 PANAMA JACK INTERNATIONAL, INC.,

12 Opposer,

13 vs.

14 KELLEY WISE,

15 Applicant,

Opposition No.: 91214882

ANSWER TO NOTICE OF OPPOSITION

16 Commissioner for Trademarks
17 P.O. Box 1451
18 Alexandria, VA 22313-1451

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20 The following is the Answer of Applicant Kelley Wise (“Applicant”). Pursuant to 37
21 C.F.R. 2.114 and 2.116(a), and Federal Rule of Civil Procedure 8, for its Answer to the Notice of
22 Opposition (“Opposition”), Applicant, by and through its undersigned counsel, hereby responds
23 and alleges as follows:

24 1. Applicant lacks sufficient information or belief regarding the allegations of
25 paragraph 1 of the Opposition and on that basis denies the same.

26 2. Applicant lacks sufficient information or belief regarding the allegations of
27 paragraph 2 of the Opposition and on that basis denies the same.
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2 3. Applicant lacks sufficient information or belief regarding the allegations of
3 paragraph 3 of the Opposition and on that basis denies the same.

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5 4. Applicant lacks sufficient information or belief regarding the allegations of
6 paragraph 4 of the Opposition and on that basis denies the same.

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8 5. Applicant lacks sufficient information or belief regarding the allegations of
9 paragraph 5 of the Opposition and on that basis denies the same.

10 6. Applicant admits the allegations of paragraph 6 of the Opposition.

11 7. Applicant denies the allegations of paragraph 7 of the Opposition.

12 8. Applicant lacks sufficient information or belief regarding the allegations of
13 paragraph 8 of the Opposition and on that basis denies the same.

14 9. Applicant lacks sufficient information or belief regarding the allegations of
15 paragraph 9 of the Opposition and on that basis denies the same.

16 10. Applicant lacks sufficient information or belief regarding the allegations of
17 paragraph 10 of the Opposition and on that basis denies the same.

18 11. Applicant denies the allegations of paragraph 11 of the Opposition.

19 12. Applicant denies the allegations of paragraph 12 of the Opposition.

20 13. Applicant denies the allegations of paragraph 13 of the Opposition.

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23 **FIRST AFFIRMATIVE DEFENSE**

24 Applicant affirmatively alleges that there is no likelihood of confusion, mistake or
25 deception because Applicant's mark and Opposer's mark are not confusingly similar. Any
26 similarity is in the term JACK, which upon information and belief, has been used and registered
27 by numerous third parties. Applicant has not intended any association with Opposer's marks, and
28

1 upon information and belief, ordinary prospective purchasers of Applicant's products do not
2 associate Applicant's and Opposer's marks.

3 **SECOND AFFIRMATIVE DEFENSE**

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5 Opposer's request for relief is barred by existing third-party registrations for marks
6 containing or comprising the term JACK, as well as by third-party use of such marks (whether
7 registered or unregistered).

8 **THIRD AFFIRMATIVE DEFENSE**

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10 Upon information and belief, Applicant alleges that the term JACK is an unprotectable
11 common name with respect to Opposer's goods. JACK is not inherently distinctive and has not
12 become distinctive in that purchasers do not associate the term with Opposer alone.

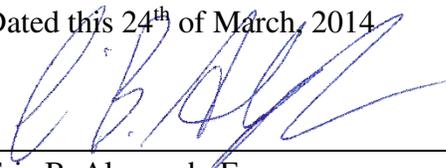
13 **FOURTH AFFIRMATIVE DEFENSE**

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15 As of the year 2000, Applicant has been performing a pirate act under the name Parrot
16 Jack. Parrot Jack performs at corporate events and parties. Applicant has regularly used the Parrot
17 Jack name in media and business over the years, developing consumer recognition and goodwill
18 with the Parrot Jack name.

19
20 WHEREFORE, Applicant Kelley Wise requests that the Trademark Trial and Appeal
21 Board dismiss the Notice of Opposition with prejudice on the merits, and that Application Serial
22 No. 85/932,969 for registration of the **PARROT JACK** mark be formally allowed.

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24 Respectfully Submitted,

25 Dated this 24th of March, 2014

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Eric B. Alspaugh, Esq.

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Attorney for Applicant
Kelley Wise

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail on
3 March 24, 2014, to:

4 Ava K. Doppelt, Esq.
5 Allison R. Imber, Esq.
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