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Filing date: **01/07/2019**

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

Proceeding	91244963
Party	Defendant Hoffman, Damien, Hoffman, Derek
Correspondence Address	ERIC LOVELL S&L US IP ATTORNEYS, P.C. 12707 HIGH BLUFF DRIVE SUITE 200 SAN DIEGO, CA 92130 UNITED STATES eric@usipattorneys.com no phone number provided
Submission	Answer
Filer's Name	Eric Lovell
Filer's email	eric@usipattorneys.com
Signature	/Eric Lovell/
Date	01/07/2019
Attachments	002TTAB_AnswervFinal.pdf(140302 bytes ) Applicant 463 CHEAT SHEET Registration.pdf(500897 bytes ) CHEAT SHEETS Reg.pdf(99607 bytes )

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

**THE DAILY BEAST COMPANY LLC,**

Opposer,

v.

**DAMIEN HOFFMAN & DEREK  
HOFFMAN,**

Applicants.

Opposition No. 91244963

Serial No. 87/249746

**ANSWER TO NOTICE OF  
OPPOSITION**

Applicants Damien Hoffman and Derek Hoffman, hereinafter ("Applicant"), for its answer to the notice of opposition of The Daily Beast Company LLC, ("Opposer"), states:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 and therefore denies the allegations.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 and therefore denies the allegations.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 and therefore denies the allegations.

4. Applicant acknowledges that there is an Exhibit C attached to the Opposition. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remainder of the facts set forth in paragraph 4 of the Opposition and therefore denies the allegations.

5. Applicant denies the allegations of paragraph 5.

6. Applicant denies the allegations of paragraph 6.

7. Applicant acknowledges there is an Exhibit D which attached to the Notice of Opposition and denies the remaining allegations of paragraph 7.

8. Applicant acknowledges Exhibit E is a screenshot of Applicant's former website.

Applicant is without knowledge or information sufficient to form a belief as to the truth of the facts set out in paragraph 8.

9. Applicant denies the allegations of paragraph 9.

10. Applicant admits that it applied for the trademark CHEAT SHEET in connection with “Educational and learning publications, namely, newsletters and non-fiction books about business, politics, sports, entertainment and lifestyle” on March 24, 2010. Applicant further admits that this application registered on October 26, 2010 (Reg. No. 3867463). Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 10 and therefore denies the allegations.

11. Applicant admits Exhibit F is a screenshot of Applicant’s former website. Applicant denies the allegations of paragraph 11. Applicant submitted specimens of use on March 24<sup>th</sup>, 2010 related to TECH CHEAT SHEET and LEISURE CHEAT SHEET.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 and therefore denies the allegations. Applicant is the owner of Reg. No. 3867463 for “CHEAT SHEET”.

13. Applicant denies the allegations of paragraph 13.

14. Applicant denies the allegations of paragraph 14.

15. Applicant admits Exhibit G is a screenshot of the About page of Applicant’s website, <https://www.cheatsheet.com/about/>. Applicant denies the remaining allegations.

16. Applicant admits the allegations of paragraph 16.

17. Applicant admits the 3960598 registration was cited in an office action during the prosecution of the 87249746 application on March 9, 2017. Applicant denies the remaining allegations of paragraph 17.

18. Applicant admits that Applicant responded to the office action on September 7,

2017. Applicant also admits that Applicant's services include, inter alia, offering digital newsletters. Applicant denies the remaining allegations.

19. Applicant denies that Opposer's services as registered and as actually used cover all fields of use. Applicant admits that its actual services cover "providing an online website featuring information and reviews in the field of publishing of non-fiction books and newsletters about business, sports, entertainment, lifestyle, computer entertainment and gaming". Applicant acknowledges Exhibit G as a screenshot of Applicant's web page. Applicant denies the remaining allegations.

20. Applicant denies the allegations of paragraph 20.

21. Applicant denies the allegations of paragraph 21.

22. Applicant denies the allegations of paragraph 22.

23. Applicant denies the allegations of paragraph 23.

24. Applicant denies the allegations of paragraph 24.

25. Applicant denies the allegations of paragraph 25.

26. Applicant denies the allegations of paragraph 26.

27. Applicant denies the allegations of paragraph 27.

28. Applicant denies the allegations of paragraph 28.

**FIRST AFFIRMATIVE DEFENSE**

**Failure to State a Claim**

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

**SECOND AFFIRMATIVE DEFENSE**

**Fair Use**

The Opposition is barred by the doctrines of fair use or nominative fair use.

**THIRD AFFIRMATIVE DEFENSE**

**Waiver, Acquiescence, or Estoppel**

The Opposition is barred, in whole or in part, by the doctrines of waiver, acquiescence, and estoppel.

**FOURTH AFFIRMATIVE DEFENSE**

**Trademark Misuse**

Opposer committed trademark misuse by using the marks cited in this Opposition to secure an exclusive right or limited monopoly not granted by trademark law, in a manner inconsistent with public policy and trademark law, for anticompetitive purposes, and has attempted to dominate the marketplace by in order to improperly increase the scope of its marks.

**FIFTH AFFIRMATIVE DEFENSE**

**No Likelihood of Confusion or False Association**

There is no likelihood of confusion, mistake, deception, or false association as the services provided by the Parties are different.

**SIXTH AFFIRMATIVE DEFENSE**

**Noncompliance**

The Opposition is barred, in whole or in part, by Opposer's failure to comply with registration requirements and other formalities of the USPTO.

**SEVENTH AFFIRMATIVE DEFENSE**

**Abandonment**

Opposer failed to use the marks cited in the Opposition in commerce or otherwise protect, police, and/or control the marks cited in the Opposition, thereby resulting in abandonment of Opposer's trademark rights for the marks cited in the Opposition.

**EIGHTH AFFIRMATIVE DEFENSE**

**Third-Party Use**

The Opposition is barred by reason of other parties' use of any marks at issue. Reg. No. 5628054 for CHEAT-SHEETS covers services in Class 42 that include, *inter alia*, "providing an interactive website".

**NINTH AFFIRMATIVE DEFENSE**

**Unclean Hands**

The Opposition is barred, in whole or in part, by the doctrine of Unclean Hands.

**TENTH AFFIRMATIVE DEFENSE**

**First Amendment**

The Opposition is barred, in whole or in part, by the First Amendment to the Constitution of the United States.

**RELIEF REQUESTED**

WHEREFORE, Applicant respectfully requests that the notice of opposition be rejected and that Applicant's mark be allowed to proceed to registration.

Respectfully submitted,

Dated: January 7, 2019

/Eric Lovell/

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Eric Lovell  
S&L US IP ATTORNEYS, P.C.  
12707 High Bluff Drive Suite 200  
San Diego, California 92130  
Telephone: (858) 451-4978  
[eric@usipattorneys.com](mailto:eric@usipattorneys.com)

ATTORNEYS FOR APPLICANTS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Answer has been served on Gerald Ferguson, opposing counsel by forwarding said copy on January 7, 2019, via email to [gferguson@bakerlaw.com](mailto:gferguson@bakerlaw.com).

/Eric Lovell/

Eric Lovell

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this submission (along with any paper referred to as being attached or enclosed) is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals (ESTTA) on this 7th day of January, 2019.

/Eric Lovell/

Eric Lovell



Generated on: This page was generated by TSDR on 2018-12-26 13:46:37 EST

Mark: CHEAT SHEET

## CHEAT SHEET

US Serial Number: 77967618

Application Filing Date: Mar. 24, 2010

US Registration Number: 3867463

Registration Date: Oct. 26, 2010

Register: Principal

Mark Type: Trademark

Status: A Section 8 declaration has been accepted.

Status Date: Jan. 23, 2017

Publication Date: Aug. 10, 2010

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### Mark Information

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Mark Literal Elements: CHEAT SHEET

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

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### Goods and Services

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Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

For: Educational and learning publications, namely, newsletters and non-fiction books about business, politics, sports, entertainment, and lifestyle

International Class(es): 016 - Primary Class

U.S Class(es): 002, 005, 022, 023, 029, 037, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Nov. 15, 2008

Use in Commerce: Nov. 15, 2008

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### Basis Information (Case Level)

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Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

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### Current Owner(s) Information

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Owner Name: Hoffman, Damien

Owner Address: P.O. Box 8912  
Asheville, NORTH CAROLINA 28814  
UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

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**Owner Name:** Hoffman, Derek

**Owner Address:** P.O. Box 8912  
Asheville, NORTH CAROLINA 28814  
UNITED STATES

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Eric Lovell

**Docket Number:** CHEAT-001

**Attorney Primary  
Email Address:** [eric@mupatents.com](mailto:eric@mupatents.com)

**Attorney Email  
Authorized:** Yes

### Correspondent

**Correspondent  
Name/Address:** Eric Lovell  
US IP SERVICES PC  
12707 HIGH BLUFF DRIVE SUITE 200  
SAN DIEGO, CALIFORNIA 92130  
UNITED STATES

**Phone:** 858-451-4978

**Correspondent e-  
mail:** [eric@usipattorneys.com](mailto:eric@usipattorneys.com)

**Correspondent e-  
mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Jul. 17, 2018	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jan. 23, 2017	NOTICE OF ACCEPTANCE OF SEC. 8 - E-MAILED	
Jan. 23, 2017	REGISTERED - SEC. 8 (6-YR) ACCEPTED	74704
Jan. 23, 2017	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	74704
Oct. 24, 2016	TEAS SECTION 8 RECEIVED	
Oct. 26, 2015	COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED	
Jul. 23, 2012	REVIEW OF CORRESPONDENCE COMPLETE - ADDRESS UPDATED	67657
Jul. 20, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67657
Jul. 16, 2012	PAPER RECEIVED	
Oct. 26, 2010	REGISTERED-PRINCIPAL REGISTER	
Aug. 10, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 10, 2010	PUBLISHED FOR OPPOSITION	
Jul. 08, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	68658
Jul. 08, 2010	ASSIGNED TO LIE	68658
Jun. 23, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 23, 2010	ASSIGNED TO EXAMINER	74819
Mar. 31, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	

## Maintenance Filings or Post Registration Information

**Affidavit of  
Continued Use:** Section 8 - Accepted

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** TMO LAW OFFICE 115

**Date in Location:** Jan. 23, 2017

# United States of America

United States Patent and Trademark Office

## CHEAT SHEET

**Reg. No. 3,867,463**

**Registered Oct. 26, 2010**

**Int. Cl.: 16**

**TRADEMARK**

**PRINCIPAL REGISTER**

HOFFMAN, DAMIEN (UNITED STATES INDIVIDUAL)  
169 SKYVIEW CIRCLE  
ASHEVILLE, NC 28804 AND

HOFFMAN, DEREK (UNITED STATES INDIVIDUAL)  
169 SKYVIEW CIRCLE  
ASHEVILLE, NC 28804

FOR: EDUCATIONAL AND LEARNING PUBLICATIONS, NAMELY, NEWSLETTERS AND NON-FICTION BOOKS ABOUT BUSINESS, POLITICS, SPORTS, ENTERTAINMENT, AND LIFESTYLE, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 11-15-2008; IN COMMERCE 11-15-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-967,618, FILED 3-24-2010.

ALICIA COLLINS, EXAMINING ATTORNEY



*David J. Kyffers*

Director of the United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## CHEAT-SHEETS

**Reg. No. 5,628,054**

**Registered Dec. 11, 2018**

**Int. Cl.: 42**

**Service Mark**

**Principal Register**

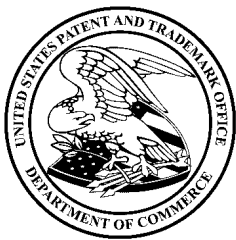
Cheat-Sheets LLC (PENNSYLVANIA LIMITED LIABILITY COMPANY)  
1110 Rock Creek Dr  
Wyncote, PENNSYLVANIA 19095

CLASS 42: providing an interactive website featuring technology that allows entertainers and aspiring entertainers to upload, download and share digital files in order to collaborate on musical productions, dramatic productions, dance productions, comedic productions, cinematic productions, television productions, sporting productions, fashion productions and artistic productions, and develop followings; providing an interactive website featuring technology that allows entertainers and aspiring entertainers to participate in discussions, get feedback from their peers and fans, collaborate on material in development, form virtual communities, and engage in social networking services in the fields of music, drama, dance, cinema, television, fashion, sports, comedy and art; providing that such website shall not include or comment upon current events news

FIRST USE 8-28-2018; IN COMMERCE 8-28-2018

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 86-379,531, FILED 08-28-2014



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office