

WOLFF & SAMSON PC
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973-325-1500
Attorneys for Registrant
Slipknot, Incorporated



02-06-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #30

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

BRUCE MANDARO, d/b/a SLIPKNOT	:	Cancellation No. 92041310
	:	
Petitioner,	:	
	:	
v.	:	
	:	
SLIPKNOT, INCORPORATED	:	Registration No. 2,566,447
	:	Registration No. 2,566,448
Registrant,	:	Registration No. 2,568,946
	:	

ANSWER TO PETITION FOR CANCELLATION

Registrant, Slipknot, Incorporated, by its attorneys, Wolff & Samson PC, hereby answers the allegations set forth in the Petition for Cancellation as follows:

1. The Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Petition.
2. The Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Petition.
3. The Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Petition.
4. The Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Petition.

5. The Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of Paragraph 5 of the Petition. The remaining sentences of Paragraph 5 refer to written documents and Registrant refers to the documents themselves as the best evidence of the terms thereof.

6. The Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Petition.

7. Registrant admits that it began using the mark SLIPKNOT to identify its live musical performances at least as early as April 1996.

8. Registrant admits that it began using the mark SLIPKNOT to identify its prerecorded CD-ROMs, compact discs, DVDs, audio cassettes, phonograph albums and video tapes at least as early as October 1996.

9. Registrant admits that it began using the mark SLIPKNOT to identify clothing at least as early as April 1996.

10. It is admitted that the Registrant owns the trade names, service mark and trademark **SLIPKNOT (stylized)**. It is denied that Petitioner owns or has right to the use of the mark **SLIPKNOT** superior to that of Registrant.

11. Denied.

12. Denied.

13. Denied.

FIRST AFFIRMATIVE DEFENSE

The Petition for Cancellation fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Petitioner has acquiesced to Registrant's use and registration of the subject marks.

THIRD AFFIRMATIVE DEFENSE

Petitioner's claim is barred by the doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

Petitioner's claim is barred by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

Registrant has superior rights for the use of the subject marks.

SIXTH AFFIRMATIVE DEFENSE

Petitioner's claim is barred by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

There is no likelihood of confusion between the parties' respective marks.

EIGHTH AFFIRMATIVE DEFENSE

Petitioner does not have any common law rights in its mark.

NINTH AFFIRMATIVE DEFENSE

Petitioner does not have secondary meaning in its mark.

TENTH AFFIRMATIVE DEFENSE

Petitioner consented to Registrant's use and registration of the subject marks.

ELEVENTH AFFIRMATIVE DEFENSE

Petitioner's claim is barred by the doctrine of fraud.

TWELFTH AFFIRMATIVE DEFENSE

Petitioner's claim is barred by the doctrine of waiver.

THIRTEENTH AFFIRMATIVE DEFENSE

Petitioner has abandoned any purported rights that he may have had in the subject mark.

WHEREFORE, the Registrant requests that the Board enter an order:

(a) denying the Petitioner's petition for cancellation of Registration No. 2,566,447 for the mark **SLIPKNOT (stylized)** in International Class 41 for entertainment services in the nature of live performances by a musical group; (2) Registration No. 2,568,946 for the mark **SLIPKNOT (stylized)** in International Class 25 for t-shirts, sweatshirts, long sleeve shirts, ski hats, baseball caps, hockey jerseys and jackets; and (3) Serial No. 2,566,448 for the mark **SLIPKNOT (stylized)** in International Class 9 for a series of musical sound recordings.

The original and a duplicate of the Answer to Petition for Cancellation are enclosed herewith. Please charge our Deposit Account No. 06-2143 for all appropriate filing fees in this matter.

SLIPKNOT, INCORPORATED

Date: February 3, 2003

By:



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aderman@wolffsamson.com

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing Answer to Petition for Cancellation was served via hand delivery on the attorney for Petitioner, Marc A. Bergsman, Esq., Dickinson Wright, PLLC, 1901 L Street, N.W., Suite 800, Washington, DC 20036 on this 4th day of February, 2003.



PETER E. NUSSBAUM
WOLFF & SAMSON, PC
Attorneys for Registrant,
Slipknot, Incorporated

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attn: TTAB No Fee
Assistant Commissioner For Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513



02-06-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #30

Re: Our File: 7701/1 Office:
Canc. No.: 92041310
Petitioner: Bruce Mandaro dba Slipknot Examiner:
Registrant: Slipknot, Incorporated

Sir:

Enclosed for filing in the United States Patent and Trademark Office is the following:

- 1. Answer
- 2. Certificate of Service
- 3. Transmittal Sheet
- 4. Postcard Receipt

CONDITIONAL PETITION

If any extension of time is required for the submission of the above-identified items, Applicant requests that this be considered a petition therefor. Please charge any additional charges or any other charges relating to this matter to the deposit account of the writer, **Account No. 06-2143**. A duplicate copy of this letter is enclosed.

Respectfully submitted,

Peter E. Nussbaum
Wolff & Samson, PC
One Boland Drive
West Orange, NJ 07052
Tel: (973) 530-2025
Fax: (973) 530-2225

2/3/03
Date

enc.

I hereby certify that this correspondence is being deposited with the United States Postal Service, First Class Mail, postage prepaid, to The Assistant Commissioner for Trademarks, Box TTAB - No Fee, 2900 Crystal Drive, Arlington, VA 22202-3513 on **February 3, 2003**.

By:
Peter E. Nussbaum

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