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

TEAM AIR EXPRESS, INC.

Petitioner,

Cancellation No. _____

vs.

DEUTSCHE TELEKOM AG,

Respondent.



05-27-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Registration No. 2,712,615
Mark T TEAM TELECOM (and Design)
Registered May 6, 2003
Filed January 4, 2001
Serial No. 76/189,776
Service: Transport of goods via truck, plane, boat and railway;
warehouse storage

ANSWER TO PETITION FOR PARTIAL CANCELLATION

Respondent, Deutsche Telekom AG (hereinafter "Respondent") hereby answers the Petition for Partial Cancellation (hereinafter the "Cancellation") of Team Air Express, Inc. (hereinafter "Petitioner"). Any allegation not specifically admitted hereinafter is denied by Respondent.

1. Petitioner is the owner of a family of "Team" marks, including, Registration No. 1,170,590 for the mark TEAM for air freight services; Registration No. 2,581,666 for the mark TEAM WORLDWIDE; Registration No. 2,281,102 for the mark TEAM TRANSPORTATION for ground freight transportation services; and Registration No. 2,282,989 for the mark TEAM for freight transportation by air, ground and water, all in International Class 39.

Respondent admits that Petitioner is the listed owner of Reg. No. 1,170,590; 2,581,666 and 2,281,102 for the services listed on each registration. Respondent denies the remaining allegations contained in paragraph 1.

2. Petitioner has priority of use as to the services for freight transportation by air, ground and water. Petitioner first used the mark TEAM in connection with air freight services in International Class 39 at least as early as early as 1979 and used the mark TEAM in connection with air freight services in International Class 39 in interstate commerce at least as early as 1979, long prior to Respondent's filing date in the Federal Republic of Germany for T TEAM TELECOM and Design.

Respondent is without knowledge sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2, therefore Respondent denies the truth of the allegations contained in paragraph 2. Respondent notes that Petitioner's 1981 TEAM registration, Reg. No. 1,170,590, claims use only in air freight services beginning in 1979. The claim of freight transportation by air, ground and water, dating back to 1979, was filed 18 years later, in 1999.

3. Petitioner is likely to be damaged by the continuance of the registration in issue for the following services: transport of goods via truck, plane, boat and railway (the Competing Services), and Petitioner's legal rights to its trademarks for TEAM, TEAM TRANSPORTATION and TEAM WORLDWIDE are likely to be impaired by the continuation of the registration of Respondent's mark as to the Competing Services.

Respondent denies the allegations contained in paragraph 3.

4. Petitioner is likely to be damaged by the continued registration of Respondent's mark for the Competing Services because Respondent's mark as used in connection with the Competing Services so resemble Petitioner's mark it is likely to cause confusion, or to cause mistake or to deceive when applied to the services of the Petitioner.

Respondent denies the allegations contained in paragraph 4.

AFFIRMATIVE DEFENSES

1. FAILURE TO STATE A CLAIM

Respondent's application is for the T TEAM TELEKOM which incorporates T-Mobile's well-known T design with square digits, for telecommunication products & services related thereto. Exhibit A, attached hereto, shows the federal trademark registrations and pending applications for the stylized T and digit designs. Despite Respondent's rights in the mark as a whole, which includes the familiar and distinctive stylized T and digits and the terms TEAM TELEKOM, Petitioner seeks the drastic remedy of cancellation of Respondent's design mark based on the duplication of a single word, TEAM. There is no legal basis to support the cancellation of a multi-word design mark based solely on the similarity of a single term.

2. UNCLEAN HANDS

Petitioner has filed, in a two month period, a least 4 cancellation proceedings against federal trademark registrations that contain the word TEAM, in an effort to force registration owners to forfeit their registrations or incur the cost of defending a cancellation action. To Respondent's knowledge, Petitioner has filed opposition proceedings against, at the least, the following federal registrations: MAXIMUM TEAM (Reg. No. 2302048); TEAM ALLIANCE (Reg. No. 2445839); SOLID TEAM AIR CARGO (Reg. No. 2777707); and T TEAM TELEKOM and design, based solely on the shared use of the term TEAM. Petitioner attempts to obtain, through intimidation and cost to registration owners, what it cannot obtain through its own registrations and use, an exclusive monopoly in the word TEAM that prohibits any use of the word in connection with transportation services regardless of the fact that there is no

likelihood of customer confusion between the marks. Petitioner's tactics are tantamount to trademark misuse.

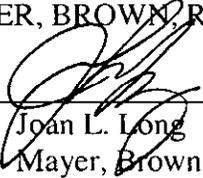
In view of the foregoing, Respondent contends that the Petitioner has failed to show any likelihood of confusion between its registrations and Respondent's application or that it will be damaged by the registration of Respondent's trademark. Respondent prays that this cancellation be dismissed and that Respondent's registration be maintained.

Respectfully submitted,

MAYER, BROWN, ROWE & MAW

Dated: May 27, 2004

By: _____


Joan L. Long
Mayer, Brown, Rowe & Maw
P.O. Box 2828
Chicago, IL 60690-2828
Telephone: (312) 701-8607
jlong@mayerbrownrowe.com

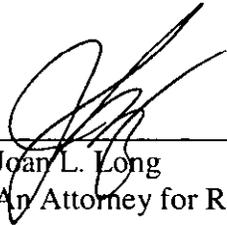
Attorneys for Respondent
Deutsche Telekom AG

CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing **ANSWER TO PETITION FOR PARTIAL CANCELLATION** was served by express mail on counsel for Petitioner at the following address:

Diane K. Lettelleir
R. Scott Rhoades
WINSTEAD SECHREST & MINICK, P.C.
P.O. Box 50784
Dallas, TX 75201

Dated: May 27, 2004

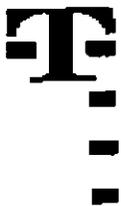


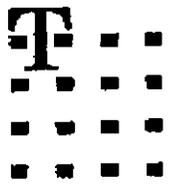
Joan L. Long
An Attorney for Respondent

Exhibit A

Deutsche Telekom AG

MARK	SER./REG. NO.	FILE/REG. DATE	STATUS
T · · Com1	2807616	January 27, 2004	Registered
-T · · · · COM-	76227581	2001-03-16	Pending
T · · Systems ·	76/166308	2000-11-16	Will be Published on 6/15/2004
T · · MobilNet	75976586	1995-08-24	Pending
T · · Mobile	75/095186	1996-04-23	Allowed on 10/14/2003
T · · Net · Call	75/406851	1997-12-16	Suspended
T · · SkyNet	75/547467	1998-09-02	Suspended
· · T DeTeSat	2523812	2002-01-01	Registered
T · · Profi ·	2518903	2001-12-18	Registered
T · · DI	2434471	2001-03-13	Registered

MARK	SER./REG. NO.	FILE/REG. DATE	STATUS
T - - Mobile -	2284387	1999-10-12	Registered
T . . One	2258418	1999-07-06	Registered
T - - Media -	2276996	1996-12-02	Registered
T - - Online -	2436056	1995-11-02	Registered
T - - Net -	2745418	1995-08-24	Registered
T . . MobilNet	74720663	1995-08-24	Pending
	2622507	1995-08-24	Registered
T . . ProfiNet	2476872	1995-08-24	Registered
T - -	2508277	1995-08-24	Registered
	2436053	1995-08-24	Registered

MARK	SER./REG. NO.	FILE/REG. DATE	STATUS
	2432439	1995-08-24	Registered
	2472584	1995-08-24	Registered
	2424278	1995-08-24	Registered
	2833537	4/20/2004	Registered
	76101497	2000-08-02	Pending
	2833572	4/20/2004	Registered
	76423646	2002-06-21	To be published
	76083601	2000-07-06	To be published
	76223047	2001-03-12	Pending

MARK	SER./REG. NO.	FILE/REG. DATE	STATUS
T · · GlobalTelecom ·	76060007	2000-05-30	published
· · T Team Telecom	2712615	2001-01-04	2003-05-06
T · Tel ·	78204625	2003-01-17	Pending
T · · System ·	2460631	1996-04-23	2001-06-19
T · · Basis ·	2476880	1996-04-23	2001-08-14