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

Proceeding	92046567
Party	Defendant COMPGEEKS.COM COMPGEEKS.COM 2604 TEMPLE HEIGHTS DRIVE , CA 92056
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Submission	Answer
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Date	01/03/2007
Attachments	Answer to Petition for Cancellation.pdf ( 5 pages )(34466 bytes )

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

Registration No. 2,499,396

Trademark: **COMPGEEKS.COM**

Computer Geeks, Inc.,  Petitioner,  v.  COMPGEEKS.COM,  Respondent.	Cancellation No.: 92046567
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**ANSWER TO PETITION FOR CANCELLATION**

COMPGEEKS.COM (“Respondent”), a California corporation, for its answer to the Petition for Cancellation filed by Computer Geeks, Inc. (“Petitioner”) against Respondent’s Registration No. 2,499,396 for the mark COMPGEEKS.COM, pleads and avers as follows:

Answering the preamble paragraph of the Petition for Cancellation on page 1, which is not numbered, Respondent is without information or belief sufficient to admit or deny the allegations concerning Petitioner’s incorporation, location and/or belief with respect to the mark COMPGEEKS.COM shown in Registration No. 2,499,396, and, on that basis, denies those allegations.

1. Answering paragraph 1 of the Petition for Cancellation, Respondent admits that the records of the United States Patent and Trademark Office reflect that Computer Geeks, Inc. filed a trademark application for the mark COMPUTER GEEKS that was assigned Serial

No. 78/595272. Respondent is without information or belief sufficient to admit or deny the remaining allegations of paragraph 1, and, on that basis, denies those allegations.

2. Answering paragraph 2 of the Petition for Cancellation, Respondent admits that the records of the United States Patent and Trademark Office reflect that the examiner of Application Serial No. 78/595272 provided information regarding Respondent's Applications Serial Nos. 78/380877 and 78/258431 in connection with a potential refusal to register. Respondent is without information or belief sufficient to admit or deny the remaining allegations of paragraph 2, and, on that basis, denies those allegations.

3. Answering paragraph 3 of the Petition for Cancellation, Respondent admits that Petitioner herein filed oppositions to Respondent's Applications Serial Nos. 78/380877 and 78/258431, now consolidated as Consolidated Opposition No. 91167886.

4. Answering paragraph 4 of the Petition for Cancellation, Respondent admits the allegations.

5. Answering paragraph 5 of the Petition for Cancellation, Respondent admits that it is the Registrant of Registration No. 2,499,396 and the Applicant of Application Serial Nos. 78/380877 and 78/258431. Respondent further admits that it asserted defenses in Opposition Nos. 91170726 and 91167886 that it "already owns substantially similar registered marks for substantially similar goods and/or services that the pending application causes no added injury to Opposer." Respondent denies the remaining allegations of paragraph 5.

6. Answering paragraph 6 of the Petition for Cancellation, Respondent is without information or belief sufficient to admit or deny the allegations of paragraph 6, and, on that basis, denies those allegations.

7. Answering paragraph 7 of the Petition for Cancellation, Respondent is without information or belief sufficient to admit or deny the allegations of paragraph 7, and, on that basis, denies those allegations.

### **AFFIRMATIVE DEFENSES**

1. Petitioner's request for relief is barred by the equitable doctrines and affirmative defenses of waiver and consent.

2. Petitioner's request for relief is barred by the equitable doctrine and affirmative defense of acquiescence.

3. Petitioner's request for relief is barred by the equitable doctrine and affirmative defense of estoppel.

4. Petitioner's request for relief is barred by the equitable doctrine and affirmative defense of laches.

5. Petitioner's request for relief is barred by the equitable doctrine and affirmative defense of unclean hands.

6. Petitioner's request for relief is barred because Petitioner fails to state a claim upon which relief can be granted.

7. Petitioner's request for relief is barred because Petitioner lacks standing to assert the claims alleged in the Petition for Cancellation.

8. Petitioner's request for relief is barred because Petitioner does not have priority over Respondent with respect to the trademark at issue.

9. Petitioner's request for relief is barred because Petitioner has committed fraud on the Trademark Office by way of its knowingly false and misleading statements in verified

documents that it has used and used in commerce the mark set forth in Application Serial No. 78/595272 in connection with all of the goods and services set forth in said application.

10. Petitioner's request for relief is barred because Petitioner abandoned any trademark rights it alleges to hold in the mark it is asserting.

11. Petitioner's request for relief is barred because Petitioner did not succeed to any trademark rights of Stephen Lonn in the mark through assignment or otherwise and, thus, Petitioner did not succeed to any priority of use to the mark that Stephen Lonn may have held.

WHEREFORE, this answering Respondent prays judgment as follows:

1. Dismissal of the Petition for Cancellation with prejudice; and
2. For such other and further relief as the Board deems just and proper.

Respectfully submitted,

HELLER EHRMAN LLP



By: \_\_\_\_\_

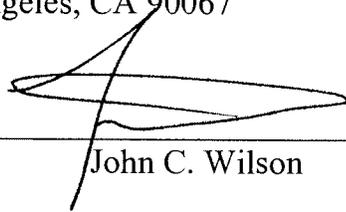
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San Diego, CA 92122-1246  
(858) 450-8400  
Attorneys for Respondent

Dated: January 3, 2007

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing ANSWER TO PETITION FOR CANCELLATION was served upon Petitioner's attorneys of record by depositing a copy thereof in the United States Mail on January 3, 2007, first-class mail, postage prepaid, in an envelope addressed as follows:

Jane Shay Wald  
Irell & Manella LLP  
1800 Avenue of the Stars, Suite 900  
Los Angeles, CA 90067



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John C. Wilson