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

Proceeding	92047433
Party	Defendant Jay-Y Enterprise Co., Inc. Jay-Y Enterprise Co., Inc. 632 New York Drive Pomona, CA 91768
Correspondence Address	Jay-Y Enterprise Co., Inc. 632 New York Drive Pomona, CA 91768 UNITED STATES
Submission	Answer
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Date	06/06/2007
Attachments	Answer to Consolidated Petition for Cancellation.pdf ( 4 pages )(29944 bytes )

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

GADO S.A.R.L.,

Petitioner,

v.

JAY-Y ENTERPRISE CO., INC.,

Respondent.

Cancellation No. 92047433

ANSWER TO CONSOLIDATED PETITION FOR CANCELLATION

Respondent Jay-Y Enterprise Co., Inc. (“Respondent”) hereby answers the Consolidated Petition for Cancellation (“Petition”) filed by Petitioner Gado S.A.R.L. (“Petitioner”), and responds to the averments contained therein as follows:

1. Answering the introductory paragraph of the Petition, Respondent is without information sufficient to form a belief as to the state of mind of Petitioner and, on that basis, denies the averments contained therein relating to Petitioner’s belief. Respondent denies the remaining averments contained in the introductory paragraph.
2. Respondent is without information sufficient to form a belief as to the truth of the averments contained in Paragraph 1 of the Petition and, on that basis, denies each of them.
3. Respondent admits the averments in Paragraph 2 of the Petition.
4. Respondent admits the averments in Paragraph 3 of the Petition.
5. Respondent admits the averments in Paragraph 4 of the Petition.
6. Respondent is without information sufficient to form a belief as to the truth of the averments contained in Paragraph 5 of the Petition and, on that basis, denies each of them.

ANSWERING COUNT I OF THE PETITION

7. Respondent is without information sufficient to form a belief as to the truth of the averments contained in Paragraph 6 of the Petition and, on that basis, denies each of them.

8. Respondent is without information sufficient to form a belief as to the truth of the averments contained in Paragraph 7 of the Petition and, on that basis, denies each of them.

9. Answering Paragraph 8 of the Petition, Respondent admits that Petitioner is the owner of Trademark Registration Nos. 1,742,622, 2,096,500, and 3,108,433, and that the registrations speak for themselves. With regard to the remaining averments contained in Paragraph 8 of the Petition, Respondent has no information sufficient to form a belief as to the truth of those averments and, on that basis, denies each of them.

10. Respondent is without information sufficient to form a belief as to the truth of the averments contained in Paragraph 9 of the Petition and, on that basis, denies each of them.

11. Respondent denies the averments contained in Paragraph 10 of the Petition.

12. Respondent is without information sufficient to form a belief as to the truth of the averments contained in Paragraph 11 of the Petition and, on that basis, denies each of them.

13. Respondent denies the averments contained in Paragraph 12 of the Petition.

14. Respondent denies the averments contained in Paragraph 13 of the Petition.

ANSWERING COUNT II OF THE PETITION

15. Respondent incorporates by reference its foregoing responses to Paragraphs 1 through 11 of the Petition as if fully set forth herein.

16. Respondent denies the averments contained in Paragraph 15 of the Petition.

17. Respondent denies the averments contained in Paragraph 16 of the Petition.

18. Respondent denies the averments contained in Paragraph 17 of the Petition.

AFFIRMATIVE DEFENSE

FAILURE TO STATE A CLAIM

The Consolidated Petition for Cancellation, and each claim therein, fails to aver facts sufficient to constitute a ground for cancellation.

LACHES

The Consolidated Petition for Cancellation is barred by the equitable doctrine of laches in light of Petitioner's failure to oppose registration of Respondent's marks and almost five year delay in filing the Consolidated Petition for Cancellation.

ESTOPPEL

On information and belief, the Consolidated Petition for Cancellation is barred by the equitable doctrine of estoppel in light of Petitioner's failure to oppose registration of Respondent's marks and almost five year delay in filing the Consolidated Petition for Cancellation despite having constructive or actual knowledge of Respondent's use and registration of its marks.

WHEREFORE, Respondent Jay-Y Enterprise Co., Inc. prays for judgment dismissing the Consolidated Petition for Cancellation with prejudice and allowing Respondent's continued registration of the marks shown in the registrations at issue.

Respectfully submitted,

SEYFARTH SHAW, LLP

Dated: June 6, 2007

By: Kenneth L. Wilton/

Kenneth L. Wilton

Attorneys for Respondent

JAY-Y ENTERPRISE CO., INC.

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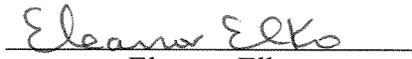
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**CERTIFICATE OF SERVICE**

I hereby certify that on June 6, 2007, I served the foregoing ANSWER TO CONSOLIDATED PETITION FOR CANCELLATION by depositing a true copy thereof in a sealed envelope, postage prepaid, in First Class U.S. mail addressed to Petitioner's counsel as follows:

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Eleanor Elko