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

Proceeding	92048785
Party	Defendant Lennon Murphy
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Date	09/04/2008
Attachments	LENNON - Answer to Amended Petiition.pdf (6 pages)(240167 bytes)

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

YOKO ONO LENNON,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92048785
)	
LENNON MURPHY,)	
)	
Respondent.)	
_____)	

ANSWER TO AMENDED PETITION FOR CANCELLATION

Respondent, Lennon Murphy, by and through here undersigned counsel, hereby responds to the Amended Petition for Cancellation as follows:

1. Respondent is without sufficient knowledge or information to admit or deny the allegations of Paragraph 1, and therefore denies same.
2. Respondent is without sufficient knowledge or information to admit or deny the allegations of Paragraph 2, and therefore denies same.
3. Respondent is without sufficient knowledge or information to admit or deny the allegations of Paragraph 3, and therefore denies same.
4. Respondent denies that Exhibit A shows status and title of any trademark applications or registrations. Respondent admits that Yoko Ono Lennon appears to be listed as the owner of Registrations 1488395 and 1769796. Respondent denies the remaining allegations, if any, of Paragraph 4.
5. Respondent admits that the LENNON trademark has acquired secondary meaning in Classes 9 and 41 with respect to Respondent's goods and

services. Respondent admits that the LENNON trademark has acquired and maintained a strong secondary meaning with respect to Respondent's goods and services. Respondent admits that Respondent is entitled to protection from misappropriation and misidentification of the LENNON trademark. Respondent denies the remaining allegations, if any, of Paragraph 5.

6. Respondent denies that the name "Lennon" is and has been synonymous with the late John Lennon. Respondent is without sufficient knowledge or information regarding the remaining allegations of Paragraph 6, and therefore denies same.

7. Respondent is without sufficient knowledge or information to admit or deny the allegations of Paragraph 7, and therefore denies same.

8. Respondent is without sufficient knowledge or information to admit or deny the allegations of Paragraph 8, and therefore denies same.

9. Respondent is without sufficient knowledge or information to admit or deny the allegations of Paragraph 9, and therefore denies same.

10. Respondent denies the allegations of Paragraph 10.

11. Respondent denies the allegations of Paragraph 11.

12. Respondent admits that the LENNON trademark is widely recognized by the general consuming public of the United States as a designation of the source of Respondent's goods and services, particularly in connection with music. Respondent denies the remaining allegations, if any, of Paragraph 12.

13. Respondent denies that Petitioner has used the trademark “Lennon” in interstate commerce since long prior to Respondent’s date of first use of the trademark “Lennon.” Respondent is without sufficient knowledge or information to admit or deny the allegations of Paragraph 13, and therefore denies same.

14. Respondent is without sufficient knowledge or information to admit or deny the allegations of Paragraph 14, and therefore denies same.

15. Respondent denies the allegations of Paragraph 15.

16. Respondent admits the allegations of Paragraph 16.

17. Respondent denies the allegations of Paragraph 17.

18. Respondent denies the allegations of Paragraph 18.

19. Respondent denies the allegations of Paragraph 19.

20. Respondent denies the allegations of Paragraph 20.

21. Respondent denies the allegations of Paragraph 21.

22. Respondent denies the allegations of Paragraph 22.

23. Respondent denies the allegations of Paragraph 23.

24. Respondent denies the allegation in Paragraph 24 that her trademark LENNON is an “Infringing Mark.” Respondent admits the allegation that on or about April 11, 2001, Respondent filed an application with the USPTO for registration, on an intent-to-use basis, for the trademark LENNON in International Classes 9 (“musical sound recordings and musical video recordings”) and 41 (“entertainment services in the nature of performances by a musical group; providing information regarding musical artists and providing recorded performances of

musical artists by means of a global computer network”). Respondent further admits that this application was assigned Serial Number 76-239,439.

25. Respondent denies the allegations of Paragraph 25.

26. Respondent admits the allegations of Paragraph 26.

27. Respondent denies that the only basis for her “Notice of Appeal and Request for Suspension” was that her mark “LENNON” had acquired distinctiveness under Section 2(f) of the Lanham Act. Respondent admits the remaining allegations of Paragraph 27.

28. Respondent denies that the only reason for her filing an Amendment to Allege Use was to meet the requirements of Section 2(f). Respondent admits the allegations of Paragraph 28.

29. Respondent admits that in her “Amendment to Allege Use Under 37 CFR 2.76 With Declaration” (“AAU”), Respondent swore (under the penalties of 18 U.S.C. §1001), that she had been using the mark “LENNON” continuously in Classes 9 and 41 since June of 1997. Respondent further admits that in her AAU, Respondent states that “as a result of my extensive use, advertising and promotion of my mark LENNON for over five years, my mark has become distinctive of my services.” Respondent denies the remaining allegations of Paragraph 29.

30. Respondent admits the allegations of Paragraph 30.

31. Respondent denies the allegations of Paragraph 31.

32. Respondent denies the allegations of Paragraph 32.

AFFIRMATIVE DEFENSES

33. Petitioner is barred from seeking cancellation of the Respondent's registration under the doctrine of laches.

34. Petitioner has acquiesced in Respondent's adoption, registration and use of the mark that is the subject of the registration sought to be cancelled.

35. Petitioner is not entitled to relief under a theory of fraud because Petitioner has failed to plead fraud with particularity.

36. Petitioner is barred from seeking cancellation of Respondent's registration because she has failed to indicate her capacity to act on behalf of John Lennon.

WHEREFORE, Respondent respectfully requests that Petitioner's Amended Petition for Cancellation be dismissed with prejudice, and that Petitioner be denied all relief requested in her Amended Petition for Cancellation.

DATED this 3rd day of September, 2008.

Respectfully submitted,
GREENBERG TRAURIG LLP

By: Joel R. Feldman
Jess L. Rosen, Esq.
Joel R. Feldman, Esq.

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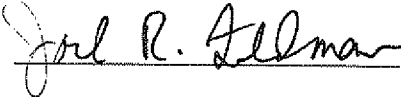
Attorneys for LENNON MURPHY

CERTIFICATE OF SERVICE

I hereby certify that this ANSWER, is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage fully prepaid addressed to:

Dorothy M. Weber
Shukat Arrow Hafer Weber & Herbsman LLP
111 West 57th Street, Suite 1120
New York, NY 10019

This 3rd day of September, 2008



Joel R. Allman