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

Proceeding	92050029
Party	Defendant Petsport USA
Correspondence Address	Petsport USA 1160 Railroad Avenue Pittsburg, CA 94565 UNITED STATES pete@petsportusa.com
Submission	Answer
Filer's Name	Richard E. Lyon, Jr.
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Signature	/Richard E. Lyon, Jr./
Date	11/12/2008
Attachments	AnswerToPetitionForCancellation.pdf (4 pages)(124661 bytes)

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

David H. Schultz,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92050029
)	(Registration No. 2,772,622)
Petsport USA, Inc.,)	
)	
Registrant.)	
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ANSWER TO PETITION FOR CANCELLATION

Petsport USA, Inc. (hereinafter "Registrant"), by and through counsel, states as follows in Answer to the Petition for Cancellation filed by David H. Schultz ("Petitioner") in the above captioned proceeding.

In response to the unnumbered paragraph of the Petition identifying the registration subject to cancellation, Registrant admits that it is the owner of Registration No. 2,772,622.

In response to the unnumbered paragraph of the Petition identifying the Grounds for Cancellation, Registrant denies that there exists a false suggestion of a connection of any type that would warrant cancellation of Registrant's registration. Registrant further denies that Petitioner has priority in the present action and Petitioner lacks knowledge or information sufficient to form a belief as to the truth or falsity of the existence of a likelihood of confusion between Registrant's mark when used on or in connection with Registrant's goods and Petitioner's mark when used on or in connection with Petitioner's goods and, on that basis, denies the allegation of likelihood of confusion. Petitioner also lacks information sufficient to form a belief as to the truth or falsity of the allegation that Registrant's registration adversely affects

Petitioner's ability to register prior JUNGLE BALL common law marks for animal playtoy balls and on that basis denies such allegation.

Registrant answers the allegations set forth in the "Statement of Grounds" in the Petition as follows:

1. Petitioner lacks knowledge or information sufficient to form a belief as to whether or not Petitioner and its predecessor in interest has adopted and used the common law mark JUNGLE BALL™ in word and logo formats for animal playtoy balls at least as early as December 31, 1991 and, on that basis, denies the allegation.

2. Petitioner lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegation that Petitioner has continuously used JUNGLE BALL in word and logo formats for animal playtoy balls in commerce well before the first use of Registrant's mark JUNGLE BALLS and, on that basis, denies the allegation.

3. Petitioner lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegation that Registrant's mark JUNGLE BALLS so resembles Petitioner's JUNGLE BALL™ mark for similar if not identical goods so as to be likely to cause confusion, to cause mistake and to deceive with consequent injury to Petitioner, the trade and the public and, on that basis, denies the allegation.

4. Petitioner lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegation that consumers and prospective consumers are likely to be confused, mistaken, or deceived into believing that Registrant or Registrant's JUNGLE BALLS goods are connected with, sponsored by, approved by, or somehow affiliated with Petitioner and, on that basis, denies the allegation.

5. Petitioner lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegation that the subject registration of the Registrant would adversely

affect the ability of Petitioner to register his JUNGLE BALL™ marks relative to animal playtoy balls with the U.S. Patent and Trademark Office and, on that basis, denies the allegation.

AFFIRMATIVE DEFENSES

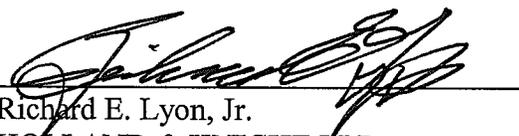
1. The Petition for Cancellation fails to state a claim upon which relief can be granted.
2. Petitioner lacks standing to bring the Petition for Cancellation.
3. Petitioner, in its own right and through its predecessor in interest, are estopped by laches to deny Registrant's ownership of the JUNGLE BALLS trademark.
4. Petitioner, in its own right and through its predecessor in interest, is estopped by acquiescence to deny Registrant's ownership of the JUNGLE BALLS trademark.

WHEREFORE, Registrant prays that the Petition for Cancellation brought by Petitioner be denied.

Respectfully submitted,

PETSPORT USA, INC.

Dated: November 12, 2008

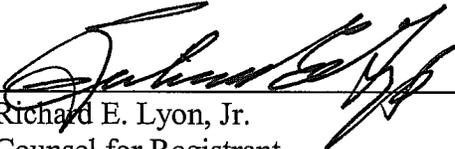
By: 

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Counsel for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **ANSWER TO PETITION FOR CANCELLATION** was served by First Class Mail, postage prepaid, to Petitioner's counsel, James P. Hanrath, Esq., Much Shelist, 191 N. Wacker Drive, Suite 1800, Chicago, Illinois 60605-1615, on this 12th day of November, 2008:


Richard E. Lyon, Jr.
Counsel for Registrant

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