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

Proceeding	92050318
Party	Defendant Solid 21 Incorporated
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Submission	Answer
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Signature	/S/
Date	05/06/2009
Attachments	ANSWER TO PETITION FOR CANCELLATION.pdf (5 pages)(116206 bytes)

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

MAKUR DESIGNS, INC.,)	Cancellation No. 92050318
)	Registration No. 2,793,987
Petitioner)	
)	ANSWER TO PETITION FOR
-against-)	CANCELLATION
)	
SOLID 21 INCORPORATED,)	
)	
Respondent.)	
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ANSWER AND AFFIRMATIVE DEFENSES TO PETITION FOR CANCELLATION

Respondent Solid 21 Incorporated (“Respondent” answers the Petition for cancellation as follows:

1. **Allegations in Paragraph 1:** Respondent admits only that Petitioner is a New York corporation. As to remaining Allegations, Respondent denies that it threatened suit against Petitioner’s use of Red; Respondent sought a cease and desist for Petitioner’s marketing of products as “RED GOLD”. Respondent admits that it holds the subject registration, and denies the remaining allegations.
- 2: **Allegations in Paragraph 2:** Respondent denies that “Red Gold” is an expression. Respondent admits the usage of Red Gold as stated in parenthesis, but denies it is merely used for identification purposes. Respondent denies that its RED GOLD is ”reddish gold”
3. **Allegations in Paragraph 3:** Respondent incorporates the responses to Paragraphs 1 and 2 as though fully set forth herein.

4. **Allegations In Paragraph 4**: Denied
5. **Allegations in Paragraph 5**: Denied
6. **Allegations in Paragraph 6**: Respondent denies that "red gold" describes red colored gold. Respondent admits that the quoted sources said what they said at the time they were quoted, but denies the meaning and usage in the context of the petition.
7. **Allegations in Paragraph 7**: Respondent is without sufficient information and belief at this time as to whether the specific outfits referred to do in fact sell red gold products; however, Respondent does admit that some outfits do sell red gold products.
8. **Allegations in Paragraph 8**: Denied.
9. **Prayer for relief**: Respondent denies that Petitioner is entitled to the relief it seeks in its prayer.

AFFIRMATIVE DEFENSES

Respondent asserts the following additional affirmative defenses:

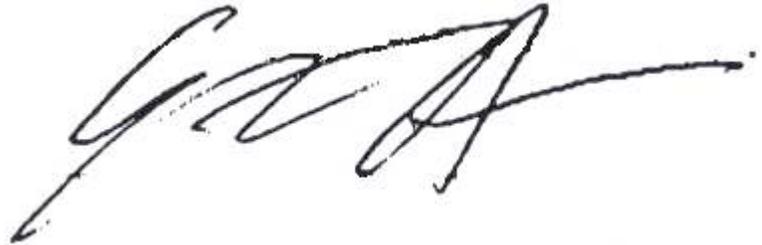
10. **Unclean Hands**: Petitioner intentionally infringed Respondent's trademark by selling Red Gold products. Petitioner should be estopped from asserting cancellation as a tool to avoid liability for trademark infringement.
11. **Mark Not Descriptive Of Color**: The mark "Red Gold" is not descriptive of color at all as Respondent's products are neither red-colored nor gold-colored – there is no such color called red gold presently in existence.

12. **Failure To State A Claim For Which Relief Can Be Granted:** The petition fails to state a claim for which relief can be granted.

Wherefore Respondent respectfully requests that the petition be dismissed with prejudice.

Dated: May 6, 2009,

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Akwo', with a long horizontal stroke extending to the right.

By: _____
GEORGE E. AKWO, ESQ.
Law Offices of George E. Akwo
2118 Wilshire Boulevard
Suite 1010
Santa Monica, CA 90403
(310) 435-9406 (phone)
(310) 496-2458 (facsimile)

Attorneys for Respondent
Solid 21, Incorporated

AFFIDAVIT OF SERVICE: STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

My business address is 2118 Wilshire Boulevard, #1010, Santa Monica, CA 90403.

I am over the age of 18 years and not a party to this action. I am readily familiar with the business practice for collection and processing of correspondence under all of the methods described therein.

On May 6, 2009, I caused the following documents: **Answer To Petition For Cancellation**, to be served on:

Phillip Furgang, Esq.
2 Crossfield Avenue
West Nyack, NY 10994

The manner of service was as follows:

(BY REGULAR MAIL): I am "readily familiar" with the firm's practice for collection and processing of correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at Santa Monica, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after deposit for mailing affidavit.

(BY OVERNIGHT DELIVERY SERVICE): I served the foregoing document by U.S. Postal Service Express Mail (overnight) or Federal Express, an express service courier which provides overnight delivery. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, and with fees for overnight delivery paid or provided.

(BY PERSONAL SERVICE): I caused such envelope to be delivered by hand to the offices of the above named addressee(s).

(BY FACSIMILE): The document(s) were transmitted by facsimile transmission to the office of the addressee(s) at the following facsimile number:_____. The transmission(s) reported as complete and without error. The facsimile machine I used complied with the California Rules of Court, Rule 2.306(g) and I printed a record of the transmission(s), a copy of which is attached to the original of this declaration.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California, and the United States that this affidavit was executed on May 6, 2009, at Santa Monica, California.

///

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A handwritten signature in black ink, appearing to read 'George E. Akwo', written in a cursive style with a long horizontal stroke extending to the right.

By: _____
GEORGE E. AKWO, ESQ.