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

Proceeding	92050920
Party	Defendant Soni, Milena
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Submission	Answer
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Signature	/Ronald E. Perez/
Date	11/10/2010
Attachments	Respondents Answer to Amended Petition to Cancel Soni adv Intellect (10NOV10).pdf (9 pages)(52281 bytes)

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

Reg. No.: 3,009,990

Mark: **ENTELLECT**

)	
)	
INTELLECT TECHNICAL)	Cancellation No. 92050920
SOLUTIONS, INC.)	
)	
Petitioner)	
)	RESPONDENT’S ANSWER TO
v.)	AMENDED PETITION FOR
)	CANCELLATION
MILENA SONI,)	
)	
Respondent)	
)	
_____)	

Respondent, MILENA SONI (“Respondent”), in compliance with the TTAB’s Order issued on October 1, 2010, granting the Motion to Amend Petition filed by Petitioner, Intellect Technical Solutions, Inc. (“Petitioner”), hereby answers the amended petition for cancellation (“Amended Petition”) instituted by Petitioner as follows:

PETITIONER'S ALLEGATIONS

1. Petitioner, Intellect Technical Solutions, Inc., is a corporation of the State of Florida having an address of 5404 Cypress Center Dr., Suite 150, Tampa, Florida 33609.

Respondent's Response: Respondent is without information or knowledge sufficient to form a belief as to the truth of the allegations asserted in Paragraph 1 of the Amended Petition and on that basis denies the allegations in Paragraph 1, leaving Petitioner to its proofs.

2. Respondent, Milena Soni, on information and belief, is an individual having offices or residing at 972 Linda Vista Avenue, Pasadena, California 91103.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 2 of the Amended Petition.

3. Respondent obtained registration of the service mark ENTELLECT in International Classes 35, 41, and 44 on November 1, 2005, as registration number 3,009,990 (the '990 registration), said registration issuing from application serial number 76539434, filed under section 1A based on actual use in commerce.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 3 of the Amended Petition.

4. On information and belief, Respondent is the current owner of the '990 registration.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 4 of the Amended Petition.

5. Respondent, in her registration, represents that she uses the mark in connection with:

Employment counseling and recruiting, Business Consultation, Business management and consultation, Business management consultation, Personnel management consultation, Psychological testing for the selection of personnel

in International Class 35, with a date of first use of May 1, 2002.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 5 of the Amended Petition.

6. Respondent, in her registration, represents that she uses the mark in connection with "Career counseling" in International Class 41, with a first use date of May 1, 2002.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 6 of the Amended Petition.

7. Respondent, in her registration, represents that she uses the mark in connection with:

Psychological counseling, Psychological consultation, Psychological testing services, Psychological testing

in International Class 44, with a date of first use of May 1, 2002.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 7 of the Amended Petition.

8. On information and belief, the services offered by Respondent are limited to referring people to a third party who administers motivational assessment tests.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 8 of the Amended Petition and leaves Petitioner to its proofs.

9. On information and belief, within the United States, Respondent's services are limited to the geographic regions of the greater Los Angeles and San Francisco areas.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 9 of the Amended Petition and leaves Petitioner to its proofs.

10. On information and belief, Respondent's use of the term ENTELLECT has been limited to use on business cards and letterhead.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 10 of the Amended Petition and leaves Petitioner to its proofs.

11. On information and belief, Respondent does not provide, and has never provided, the services recited in the '990 Registration for International Class 35.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 11 of the Amended Petition and leaves Petitioner to its proofs.

12. On information and belief, Respondent does not provide, and has never provided, the services recited in the '990 Registration for International Class 41.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 12 of the Amended Petition and leaves Petitioner to its proofs.

13. On information and belief, Respondent does not provide, and has never provided, the services recited in the '990 Registration for International Class 44.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 13 of the Amended Petition and leaves Petitioner to its proofs.

14. On information and belief the Respondent has not used the ENTELLECT mark in commerce in connection with the services recited in the '990 Registration for International Class 35.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 14 of the Amended Petition and leaves Petitioner to its proofs.

15. On information and belief the Respondent has not used the ENTELLECT mark in commerce in connection with the services recited in the '990 Registration for International Class 41.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 15 of the Amended Petition and leaves Petitioner to its proofs.

16. On information and belief the Respondent has not used the ENTELLECT mark in commerce in connection with the services recited in the '990 Registration for International Class 44.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 16 of the Amended Petition and leaves Petitioner to its proofs.

17. On information and belief, to the extent Respondent may have used the ENTELLECT mark in commerce, Respondent has long since abandoned it.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 17 of the Amended Petition and leaves Petitioner to its proofs.

18. Petitioner filed an application on January 3, 2008, as Application Serial No. 77/363,060 for registration of its mark INTELLECT, for use in connection with:

Employment hiring, recruiting, placement, staffing and career networking services, namely recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions in International Class 35, with a first use date of December 31, 1997, and for use in connection with:

Consulting services in the field of computer-based information systems for businesses, namely providing software development, quality assurance, project management and infrastructure consulting services

in International Class 42, with a first use date of December 31, 1997.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 18 of the Amended Petition.

19. Petitioner subsequently divided application 77/363,060 into two applications, after which the parent application (77/363,060) retained the services identified in International Class 35 and the child application (77/975,757) retained the services identified in International Class 42.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 19 of the Amended Petition.

20. Child application (77/957,757) is issued as registration number 3,546,884 on December 16, 2008.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 20 of the Amended Petition.

21. The Examining Attorney rejected the parent application (77/363,060), citing a likelihood of confusion between Respondent's registration and Petitioner's application.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 21 of the Amended Petition.

22. Petitioner subsequently amended the description of services in the parent application to "Placement services, namely placing information technology professionals into information technology positions."

Respondent's Response: Respondent admits the allegations asserted in Paragraph 22 of the Amended Petition.

23. The Examining Attorney maintained and made the rejection of parent application (77/363,060) final, again citing a likelihood of confusion with Respondent's registration.

Respondent's Response: Respondent admits the allegations asserted in Paragraph 23 of the Amended Petition.

24. Petitioner has been using its INTELLECT as a service mark and trade name for recruiting and placement services since at least as early as December 31, 1997, more than four years prior to the date of first use of Respondent's mark.

Respondent's Response: Respondent is without information or knowledge sufficient to form a belief as to the truth of the allegations asserted in Paragraph 24 of the Amended Petition, and on that basis denies the allegations in Paragraph 24, leaving Petitioner to its proofs.

25. Petitioner will be injured by the continued registration of the trademark ENTELLECT by Respondent in that Petitioner's own application for registration of a similar mark has been refused registration as being confusingly similar, thereby depriving Petitioner from benefiting from the use and registration of said mark.

Respondent's Response: Respondent denies the allegations asserted in Paragraph 25 of the Amended Petition and leaves Petitioner to its proofs.

Respectfully submitted,

Dated: November 10, 2010

By: \s\ Ronald E. Perez
Surjit P. Soni
Ronald E. Perez

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ATTORNEYS FOR RESPONDENT,
MILENA SONI

CERTIFICATE OF SERVICE

I, hereby certify that a true and complete copy of the foregoing **RESPONDENT'S ANSWER TO AMENDED PETITION FOR CANCELLATION** has been served on Petitioner, INTELLECT TECHNICAL SOLUTIONS, INC. by mailing said copy on **November 10, 2010**, as follows:

William Giltinan
Carlton Fields, P.A.
PO Box 3239
Tampa FL 33601-3239
Fax: (813) 229-4133
E-mail: tgiltinan@carltonfields.com

- (BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. postal service on that same day, with postage thereon fully prepaid at Pasadena, 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 date of deposit for mailing in affidavit.
- (VIA ELECTRONIC MAIL)** I caused such document to be delivered to addressees listed above.
- (FACSIMILE)** I caused the attached document to be transmitted to: the above addressees

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on **November 10, 2010**, at Pasadena, California.

/s/ Lauren P. Coyle
Lauren P. Coyle