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

Proceeding	92051249
Party	Defendant Barbwire, LLC
Correspondence Address	Barbwire, LLC #226, 8711 E. Pinnacle Road Scottsdale, AZ 85255 UNITED STATES
Submission	Answer
Filer's Name	Tsan Abrahamson
Filer's e-mail	tsan@cobaltlaw.com
Signature	/Tsan Abrahamson/
Date	08/31/2009
Attachments	Barbwire - Response to Cancellation.pdf ( 4 pages )(145256 bytes )

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

In the matter of Trademark Application

Serial Nos.: 78/629,108 and 78/632,285  
By: Barbwire LLC  
For the Trademark: BARBWIRE WESTERN COUTURE (and design) and  
BARBWIRE WESTERN COUTURE

Shelby Group International,

Petitioner,

v.

Barbwire LLC,

Registrant.

Cancellation No. 92051249

**ANSWER AND AFFIRMATIVE DEFENSES**

Registrant, Barbwire LLC, by and through counsel, hereby answers the Petition to Cancel by addressing each allegation and stating affirmative defenses.

Answering the preamble of the Petition to Cancel, Registrant is without knowledge or information sufficient to admit or deny Petitioner Shelby Group International's ("Petitioner") incorporation and location, and its claim of damage, and on that basis denies such allegations. Answering the second part of the preamble, Registrant admits the current owner of the above-referenced registrations for BARBWIRE (the "Registrations") is Barbwire, LLC and has an address at 8711 E. Pinnacle Road #226, Scottsdale, AZ 85255.

**ANSWER**

1. Answering the allegations of Paragraph 1 of the Petition to Cancel, Registrant admits it owns the mark BARBWIRE WESTERN COUTURE (and design)

for “retail apparel store” in international class 35. Except as so expressly admitted, Registrant denies the allegations of Paragraph 1.

2. Answering the allegations of Paragraph 2 of the Petition to Cancel, Registrant admits that it owns the mark BARBWIRE WESTERN COUTURE for “retail apparel store” in international class 35. Except as so expressly admitted, Registrant denies the allegations of Paragraph 2.

3. Answering the allegations of Paragraph 3 of the Petition to Cancel, Registrant denies the allegations set forth.

4. Answering the allegations of Paragraph 4 of the Petition to Cancel, Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 5, and on that basis, denies the allegations.

5. Answering the allegations of Paragraph 5 of the Petition to Cancel, Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 5, and on that basis, denies the allegations.

6. Answering the allegations of Paragraph 6, Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 6, and on that basis, denies the allegations.

7. Answering the allegations of Paragraph 7 of the Petition to Cancel, Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations outlined in Paragraph 7, and on that basis, denies the allegations.

8. Answering the prayer for relief, registrant denies that its registrations should be cancelled under Section 14(3) of the Lanham Act, which calls for cancellation of a trademark on the grounds that the mark has become generic, functional, or has been abandoned.

#### **AFFIRMATIVE DEFENSES**

Registrant asserts the following affirmative defenses without conceding that it has the burden of proof or burden of producing evidence with respect to any of these issues.

1. Petitioner has failed to state a cause of action upon which relief may be granted.
2. Registrant has continually used the Registrations in question or, has an excusable period of non-use of less than three years, due to special circumstances beyond Registrant's control and not due to any intention to abandon the mark.

Date: August 31, 2009

COBALT LLP

By: 

Tsan Abrahamson  
Lezlie Jensen Huston

COBALT LLP  
819 BANCROFT WAY  
BERKELEY, CALIFORNIA 94710  
TEL: 510-841-9800  
FAX: 510-295-2401

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 31<sup>st</sup> day of August, a true and correct copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES was served upon Petitioner by U.S. First Class Mail in an envelope, postage pre-paid, addressed as follows:

Adam S. Baldridge  
Baker, Donelson, Bearman, Caldwell, et al  
165 Madison Avenue, Suite 2000  
Memphis, TN 38103

A handwritten signature in black ink, appearing to read 'Tsan Abrahamson', is written over a horizontal line.

Tsan Abrahamson, Esq.