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

Proceeding	92051963
Party	Defendant Even St. Productions, Ltd.
Correspondence Address	Robert A. Becker Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES rbecker@frosszelnick.com
Submission	Answer
Filer's Name	Robert A. Becker
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Date	03/16/2010
Attachments	Answer to Petition for Cancellation (F0596719).PDF (5 pages)(1131251 bytes)

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

In the Matter of Registration No. 2,920,734
Trademark: SLY AND THE FAMILY STONE
Registrant's Ref.: EVSP USA TC-1002164

SYLVESTER STEWART, Petitioner, v. EVEN ST. PRODUCTIONS, LTD., Registrant.	Cancellation No. 92051963

ANSWER TO PETITION FOR CANCELLATION

Registrant, by its undersigned counsel, for its Answer and affirmative defenses to the Petition for Cancellation, states:

1. Admits that Petitioner purports to seek to cancel Registration No. 2,920,734 and admits that Petitioner alleges damages as claimed in the first full paragraph on page 1 and denies the allegations set forth in said paragraph and further denies that Petitioner has stated a valid claim for relief.

2. Admits the allegations set forth in the second full paragraph on page 1.

Cancellation Based on Fraud

3. Admits that in the application filed by Respondent for the mark herein sought to be cancelled, Respondent provided the oath required by the Trademark Office and otherwise denies the allegations set forth in the first full paragraph on page 2.

4. Denies the allegations set forth in the second full paragraph on page 2.

5. Denies the allegations set forth in the first full paragraph on page 3.

6. Denies the allegations set forth in the second full paragraph on page 3.

7. Denies the allegations set forth in the third full paragraph on page 3.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first sentence of the carryover paragraph on pages 3-4 and therefore denies the same. Admits the allegations set forth in the second sentence of that paragraph.

Cancellation Based on Prior Use of the Same Mark

9. In response to the first full paragraph on page 4, repeats, realleges, and incorporates by reference its responses to each and every paragraph before and after that paragraph as if said responses were set forth in full herein.

10. Denies the allegations set forth in the second full paragraph on page 4.

Cancellation Based on Lanham Act § 2(a)

11. In response to the third full paragraph on page 4, repeats, realleges, and incorporates by reference its responses to each and every paragraph before and after that paragraph as if said responses were set forth in full herein.

12. Denies the allegations set forth in the first five sentences of the first paragraph on page 5, and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in said paragraph and therefore denies the same.

13. Admits that Petitioner makes the allegations set forth in the second paragraph on page 5, but denies the truth of the allegations contained therein.

Cancellation Based on Ownership of Mark

14. In response to the third paragraph on page 5, repeats, realleges, and incorporates by reference its responses to each and every paragraph before and after that paragraph as if said responses were set forth in full herein.

15. Denies the allegations set forth in the carryover paragraph on pages 5-6.

16. Denies the allegations set forth in the first full paragraph on page 6.

17. Admits that Petitioner makes the allegations set forth in the second full paragraph on page 6, but denies the truth of the allegations contained therein.

FIRST AFFIRMATIVE DEFENSE

18. Petitioner's claims are barred by the doctrines of waiver and/or estoppel.

SECOND AFFIRMATIVE DEFENSE

19. The Petitioner for Cancellation fails to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

20. If Petitioner ever owned any rights in the mark SLY AND THE FAMILY STONE, Petitioner abandoned those rights prior to November 10, 2003.

FOURTH AFFIRMATIVE DEFENSE

21. With regard to the Employment Agreement referred to in the second full paragraph on page 2 of the Petition for Cancellation, Petitioner signed 51 extensions of that Employment Agreement (the first extension dated February 24, 1994 and the 51st extension dated August 15, 2006), which extended that Employment Agreement well beyond the application filing date and the Registration date.

FIFTH AFFIRMATIVE DEFENSE

22. Petitioner's petition for cancellation fails to comply with the Federal Rules of Civil Procedure as adopted by the Trademark Rules of Practice in that it fails to set forth in each paragraph a concise allegation or statement of fact that can be admitted or denied. Respondent is not obligated to parse through the myriad sentences in each of Petitioner's pleaded paragraphs in order to respond to the same.

WHEREFORE, Registrant requests that the Petition for Cancellation be dismissed with prejudice in its entirety and that Registration No. 2,920,734 be maintained.

Dated: New York, New York
March 16, 2010

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: _____
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the attorney for Petitioner, Rod Rummelsburg, Esq., Allan Law Group, P.C., 22917 Pacific Coast Highway, #350, Malibu, CA 90265, this 16th day of March, 2010.

Robert A. Becker