

ESTTA Tracking number: **ESTTA361910**

Filing date: **08/06/2010**

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

Proceeding	92052789
Party	Defendant Michael James, LLC
Correspondence Address	MICHAEL JAMES, LLC 5360 JAEGER ROAD NAPLES, FL 34109 UNITED STATES
Submission	Answer
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Signature	/JENNIFER L. WHITELAW/
Date	08/06/2010
Attachments	Answer to Cancellation Action8-6-10.pdf (9 pages)(24690 bytes)

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

In the matter of Registration No. 3,602,009 for the mark **PINERIDGE COACH WORKS**
Registration Date: April 7, 2009

PINE RIDGE IMPORTS OF NAPLES, INC.,

Petitioner,

Cancellation No. 92052789

MICHAEL JAMES, LLC,

Registrant.

_____ /

CERTIFICATE OF MAILING

I HEREBY CERTIFY that the original of this Answer is being electronically filed with the Trademark Trial and Appeal Board of the United States Patent and Trademark Office through the web site at <http://esta.uspto.gov> on August 6, 2010.

/JENNIFER L. WHITELAW/
JENNIFER L. WHITELAW

**REGISTRANT'S ANSWER AND AFFIRMATIVE DEFENSES TO
PETITION FOR CANCELLATION**

Registrant, **MICHAEL JAMES, LLC**, referred to by Petitioner in this action as "Respondent", upon present knowledge and belief, hereby files its Answer and

Affirmative Defenses to the Petition for Cancellation filed by Petitioner **PINE RIDGE IMPORTS OF NAPLES, INC.**, and states as follows:

PRELIMINARY STATEMENT

The unnumbered prefatory statements set forth in the Petition for Cancellation are not properly set forth as allegations and do not require a response. To the extent that they may be construed to require a response the same are denied.

It should be additionally noted that the Petition is improper, confusing, at time rambling and incoherent and incorporates improper documents and arguments of counsel and does not set forth a plain and concise statement of facts, as required by the applicable rules, and therefore Registrant generally objects.

ANSWER

1. Registrant states that the allegations of paragraph 1 do not require a response.
2. Registrant states that the referenced public record speaks for itself for itself, and denies the remainder of paragraph 2.
3. Registrant denies the allegations of paragraph 3.
4. Registrant denies the allegations of paragraph 4.
5. Registrant states that the referenced federal public record speaks for itself, and Registrant denies the remainder of paragraph 5.
6. Registrant denies the allegations of paragraph 6.
7. Registrant states that the referenced Exhibit D and deposition transcript speaks for itself, that the partial recitation of testimony cited in paragraph 7 is facially incomplete and misleading and that the deposition was subject to a court order governing its use

and disclosure, and that the same has been violated by the Petitioner, and Registrant denies the remainder of paragraph 7.

8. Registrant is without knowledge as to the allegations of paragraph 8 and further notes that the referenced Exhibit E is unauthenticated, unreliable, not material to the issues herein, is misleading and constitutes inadmissible hearsay and Registrant denies the remainder of paragraph 8.

9. Registrant states that the basis of Petitioner allegations in paragraph 9 demonstrate a complete failure to understand the very fundamental, basic, textbook elements of trademark law and further that Exhibit B is unauthenticated, unreliable, not material to the issues herein, is misleading and constitutes inadmissible hearsay and Registrant denies the remainder of paragraph 9.

10. Registrant denies the allegations of paragraph 10.

11. Registrant denies the remainder of paragraph 11.

12. Registrant states that the referenced Exhibit D and deposition transcript speaks for itself, that the partial recitation or reference to testimony cited in paragraph 12 is facially incomplete and misleading and that the deposition was subject to a court order governing its use and disclosure, and that the same has been violated by the Petitioner, and Registrant denies the remainder of paragraph 12.

13. Registrant denies the allegations of paragraph 13.

14. Registrant denies the allegations of paragraph 14.

15. Registrant denies the allegations of paragraph 15.

16. Registrant denies the allegations of paragraph 16.

17. Registrant denies the allegations of paragraph 17.

18. Registrant denies the allegations of paragraph 18.

19. Registrant incorporates its prior denials and responses, as stated above, and denies the remainder of paragraph 19.
20. Registrant incorporates its prior denials and responses, as stated above, and denies the remainder of paragraph 20.
21. Registrant denies the allegations of paragraph 21.
22. Registrant denies the allegations of paragraph 22.
23. Registrant denies the allegations of paragraph 23.
24. Registrant incorporates its prior denials and responses, as stated above, and denies the remainder of paragraph 24.
25. Registrant states that the referenced Exhibit F is unauthenticated, unreliable, not material to the issues herein, is misleading and constitutes inadmissible hearsay and Registrant denies the remainder of paragraph 25.
26. Registrant states that the referenced Exhibit G is unauthenticated, unreliable, not material to the issues herein, is misleading and constitutes inadmissible hearsay and Registrant denies the remainder of paragraph 26.
27. Registrant incorporates its prior denials and responses, as stated above, and denies the remainder of paragraph 27.
28. Registrant states that the referenced Exhibit H is unauthenticated, unreliable, not material to the issues herein, is misleading and constitutes inadmissible hearsay and Registrant denies the remainder of paragraph 28.
29. Registrant incorporates its prior denials and responses, as stated above, Registrant states that the referenced Exhibit I is unauthenticated, unreliable, not material to the issues herein, is misleading and constitutes inadmissible hearsay and Registrant denies the remainder of paragraph 29.

30. Registrant incorporates its prior denials and responses, as stated above, Registrant states that the referenced Exhibit D is unauthenticated, unreliable, not material to the issues herein, is misleading and constitutes inadmissible hearsay and Registrant denies the remainder of paragraph 30.

31. Registrant incorporates its prior denials and responses, as stated above, Registrant states that the referenced Exhibit J is unauthenticated, unreliable, not material to the issues herein, is misleading and constitutes inadmissible hearsay and Registrant denies the remainder of paragraph 31.

32. Registrant denies the allegations of paragraph 32.

33. Registrant denies the allegations of paragraph 33.

34. Registrant denies the allegations of paragraph 34.

35. Registrant further denies each, every, and all of the remaining allegations asserted by Petitioner in all counts and/or paragraphs of the Petition for Cancellation which are not expressly admitted to be true herein.

REGISTRANT'S AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

As between Petitioner and Registrant, Registrant has priority, and Petitioner lacks priority with respect to the recited services of the subject Registration.

SECOND AFFIRMATIVE DEFENSE

The Petition for Cancellation, in whole or in part, fails to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

Petitioner's assertion of rights against Registrant is barred, in whole or in part, by the doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

The Petition for Cancellation is barred, in whole or in part, by the doctrine of acquiescence.

FIFTH AFFIRMATIVE DEFENSE

The Petition for Cancellation is barred, in whole or in part, by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

The Petition for Cancellation is barred, in whole or in part, by the doctrine of estoppel, including but not limited to estoppel by judgment and in pais.

SEVENTH AFFIRMATIVE DEFENSE

The Petition for Cancellation is barred, in whole or in part, by the doctrine of unclean hands.

EIGHTH AFFIRMATIVE DEFENSE

Petitioner is not the real party in interest to enforce all or some of the rights claimed in this action.

NINTH AFFIRMATIVE DEFENSE

Petitioner will not be harmed by Registrant's registration and therefore lacks standing to petition to cancel the subject Application.

TENTH AFFIRMATIVE DEFENSE

The Petition for Cancellation is barred, in whole or in part, by the doctrine of *res judicata*.

ELEVENTH AFFIRMATIVE DEFENSE

Registrant is entitled to a statutory presumption of validity of the registered mark, and of the registration itself, of Registrant's ownership of the mark, and of Registrant's exclusive right to use the registered mark, and of the enforceability by Registrant in the current proceeding, as well as in other contexts, pursuant to 15 U.S.C. §1115.

TWELFTH AFFIRMATIVE DEFENSE

The Petition for Cancellation is barred by the doctrine of accord and satisfaction.

THIRTEENTH AFFIRMATIVE DEFENSE

The Petitioner is bound by uncontested, undisputed, written instrument to dismiss the current proceeding with prejudice.

ADDITIONAL AFFIRMATIVE DEFENSES RESERVED

Registrant specifically reserves the right to assert such additional Affirmative Defenses as may be found to be applicable through or following discovery in this Cancellation Action.

WHEREFORE, having fully answered and set forth its Affirmative Defenses as required, Registrant requests that the Petition for Cancellation herein be dismissed with prejudice at the cost of Petitioner, and judgment entered in favor of Registrant, and awarding Registrant such other and further relief as the Board deems just and equitable.

Respectfully submitted,

/JENNIFER L. WHITELAW/
JENNIFER L. WHITELAW
WHITELAW LEGAL GROUP
Attorney for Registrant
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Third Floor
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of this **Registrant's Answer to Petition**

for Cancellation was mailed to:

Deborah Serafini, Esquire dl@lydeckerdiaz.com
Jessica Prause, Esquire jprause@lydeckerdiaz.com
Lydecker Diaz
1201 Brickell Avenue, Fifth Floor
Miami, Florida 33131

via first class mail, postage prepaid on August 6, 2010.

/JENNIFER L. WHITELAW/
JENNIFER L. WHITELAW