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

Proceeding	92053355
Party	Defendant Wyman Von Mohr & Associates
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Attachments	Answer to Petition for Cancellation.pdf (7 pages)(17800 bytes)

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

In the matter of :
STRIKE KING LURE COMPANY, : Cancellation No. 92,053,355
Petitioner, : Mark: ROCKET FISHING ROD
v. : Registration No. 3,500,147
WYMAN VON MOHR & ASSOCIATES, :
Registrant. :

ANSWER TO PETITION FOR CANCELLATION

Registrant Wyman von Mohr & Associates (“Registrant”) hereby responds to the allegations of the Petition for Cancellation (“Petition”) from petitioner Strike King Lure Company (“Petitioner”) as follows:

1. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 1 of the Petition and therefore denies such allegations.

2. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 2 of the Petition and therefore denies such allegations.

3. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 3 of the Petition and therefore denies such allegations.

4. Registrant denies that Petitioner is the owner of U.S. Trademark Registration 2,464,463 (the “Cancelled Registration”), in view of the cancellation by the U.S. Patent and Trademark Office (“USPTO”), on March 29, 2008, of said registration.

Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of paragraph 4 of the Petition and therefore denies such allegations.

5. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 5 of the Petition and therefore denies such allegations.

6. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 6 of the Petition and therefore denies such allegations.

7. Registrant admits in response to the allegations of paragraph 7 of the Petition that Petitioner's Cancelled Registration was cancelled by the USPTO, but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of paragraph 7 of the Petition and therefore denies such allegations.

8. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 8 of the Petition and therefore denies such allegations.

9. Registrant admits the allegations of paragraph 9 of the Petition.

10. Registrant admits the allegations of paragraph 10 of the Petition.

11. Registrant admits the allegations of paragraph 11 of the Petition.

12. Registrant admits the allegations of paragraph 12 of the Petition.

13. Registrant admits the allegations of paragraph 13 of the Petition.

14. Registrant admits the allegations of paragraph 14 of the Petition.

15. Registrant admits the allegations of paragraph 15 of the Petition.

16. Registrant denies the allegations of paragraph 16 of the Petition and states that Registrant's alleged date of first use and first use in commerce was "at least as early as November 14, 2006".

17. Registrant admits the allegations of paragraph 17 of the Petition.

18. Registrant denies the allegations of paragraph 18 of the Petition.

19. Answering the allegations of paragraph 19 of the Petition, Registrant states that Registrant's alleged date of first use and first use in commerce was "at least as early as November 14, 2006".

20. Answering the allegations of paragraph 20 of the Petition, Registrant states that Registrant's alleged date of first use and first use in commerce was "at least as early as November 14, 2006".

21. Answering the allegations of paragraph 21 of the Petition, Registrant states that Registrant's alleged date of first use and first use in commerce was "at least as early as November 14, 2006".

22. Registrant denies the allegations of paragraph 22 of the Petition.

23. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 23 of the Petition and therefore denies such allegations.

24. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 24 of the Petition and therefore denies such allegations.

25. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 25 of the Petition and therefore denies such allegations.

26. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 26 of the Petition and therefore denies such allegations.

27. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 27 of the Petition and therefore denies such allegations.

28. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 28 of the Petition and therefore denies such allegations.

29. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 29 of the Petition and therefore denies such allegations.

30. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 30 of the Petition and therefore denies such allegations.

31. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 31 of the Petition and therefore denies such allegations.

32. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 32 of the Petition and therefore denies such allegations.

33. Registrant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 33 of the Petition and therefore denies such allegations.

DEFENSES

FIRST DEFENSE

Petitioner will not be damaged by the continued registration of the subject mark on the Principal Register.

SECOND DEFENSE

There is a lack of likelihood of confusion between Registrant's mark and Petitioner's mark as evidenced, *inter alia*, by the fact that the USPTO did not cite Petitioner's mark (which had not yet been cancelled) during consideration of Registrant's application to register its ROCKET FISHING ROD mark.

THIRD DEFENSE

In the alternative, Registrant only uses its mark on a specific type of goods covered by the identification, *i.e.*, fishing rods for children and juniors. There is no likelihood of confusion with respect to Registrant's actual goods and so, even if the Board finds that Petitioner is entitled to judgment, Registrant would be entitled to a registration of its mark with a restricted identification.

FOURTH DEFENSE

Petitioner's claims are barred by laches, estoppel and/or acquiescence.

Wherefore, Registrant prays that the Petition be dismissed with prejudice.

COHEN, PONTANI, LIEBERMAN & PAVANE LLP

Dated: January 12, 2011

By: /Edward M. Weisz/

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on this day, a copy of the foregoing **ANSWER TO PETITION FOR CANCELLATION** is being electronically filed with the United States Patent and Trademark Office, Trademark Trial and Appeal Board at <http://estta.uspto.gov/>.

Date: January 12, 2011

By: /Lisa A. Ferrari/

CERTIFICATE OF SERVICE

I hereby certify that on this day, I served, by U.S. Mail, postage prepaid, and electronic delivery, a copy of the foregoing **ANSWER TO PETITION FOR CANCELLATION** upon counsel for Petitioner, addressed as follows:

Russell H. Walker, Esq.
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Date: January 12, 2011

By: /Lisa A. Ferrari/