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

Proceeding	92054069
Party	Defendant Skydive Arizona, Inc.
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Date	08/15/2012
Attachments	Hogue v Skydive--Skydive Answer.pdf (5 pages)(13360 bytes)

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

In the matter of Registration No. 3,099,847 (Application Serial No. 76/641,146)

MARK: **SKYDIVE ARIZONA**

Registered on the Principal Register on June 6, 2006

Marc Hogue,

Petitioner,

vs.

Skydive Arizona, Inc.

Respondent.

Cancellation No. 92/054,069

ANSWER

Respondent Skydive Arizona, Inc. (“Respondent”), by and through its undersigned counsel, answers the Amended Petition for Cancellation of Registration (Doc. 18) (“Petition”) filed by petitioner Marc Hogue (“Petitioner” or “Hogue”), by answering the allegations in each of the corresponding numbered paragraphs of the Petition, as follows:

1. Respondent admits that Hogue is a member or shareholder of Skydive Force, Inc., Skydive Coolidge, Inc., and Skydive Phoenix, Inc., but Respondent lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 1 of the Petition and therefore denies the same.

2. Respondent admits the allegations in Paragraph 2 of the Petition.

3. Respondent admits that Respondent claimed actual use of the mark, and denies the remaining allegations in Paragraph 3 of the Petition, because Paragraph 3 fails to accurately quote from the file history of Application Serial No. 76/641,146 (the “Application”). The

Application claimed actual use of SKYDIVE ARIZONA in connection with “[e]ducational services, namely, providing instructions and training in parachuting and skydiving.”

4. Respondent denies the allegations in Paragraph 4 of the Petition.

5. Respondent admits that the United States Patent and Trademark Office issued a non-final office action on or about January 12, 2006, but denies that the non-final office action *denied* registration to Respondent as alleged. The word “deny” does not appear in the non-final office action.

6. Respondent admits that the Application was amended to add “No claim is made to the right to use SKYDIVE apart from the mark as shown.” Respondent denies the remaining allegations of Paragraph 6 of the Petition.

7. Respondent admits the allegations of Paragraph 7 of the Petition.

FIRST CLAIM FOR RELIEF

8. Respondent incorporates by reference its responses to all of the prior paragraphs in the Petition.

9. Respondent denies the allegations of Paragraph 9 of the Petition.

10. Respondent denies the allegations of Paragraph 10 of the Petition.

11. Respondent denies the allegations of Paragraph 11 of the Petition.

12. Respondent denies the allegations of Paragraph 12 of the Petition.

13. Respondent denies the allegations of Paragraph 13 of the Petition.

SECOND CLAIM FOR RELIEF

14. Respondent incorporates by reference its responses to all of the prior paragraphs in the Petition.

15. Respondent denies the allegations of Paragraph 15 of the Petition.

16. Respondent denies the allegations of Paragraph 16 of the Petition.

17. Respondent denies the allegations of Paragraph 17 of the Petition.

18. Respondent denies the allegations of Paragraph 18 of the Petition.

19. Respondent denies the allegations of Paragraph 19 of the Petition.

THIRD CLAIM FOR RELIEF

20. Respondent incorporates by reference its responses to all of the prior paragraphs in the Petition.

21. Respondent denies the allegations of Paragraph 21 of the Petition.

22. Respondent denies the allegations of Paragraph 22 of the Petition.

23. Respondent denies the allegations of Paragraph 23 of the Petition.

24. Respondent denies the allegations of Paragraph 24 of the Petition.

25. Respondent denies the allegations of Paragraph 25 of the Petition.

AFFIRMATIVE DEFENSES

By including any matter below as an affirmative defense, Respondent does not admit that any matter set forth below necessarily is an affirmative defense, or must be plead as an affirmative defense, and does not assume the burden of proof on any issue as to which it does not otherwise have the burden.

First Affirmative Defense

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

Second Affirmative Defense

The Petition, in whole or in part, is barred by the doctrine of laches.

Third Affirmative Defense

The Petition, in whole or in part, is barred by the doctrine of estoppel.

Fourth Affirmative Defense

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

Fifth Affirmative Defense

The Petition, in whole or in part, is barred by the doctrines of claim preclusion and/or issue preclusion.

Sixth Affirmative Defense

The Petition fails to state a claim upon which relief can be granted.

Seventh Affirmative Defense

Hogue lacks standing to pursue the Petition.

Wherefore, Respondent respectfully requests that the Petition be dismissed with prejudice.

DATED this 15th day of August, 2012.

SNELL & WILMER L.L.P.

By David G. Barker/
Sid Leach
David G. Barker
Attorneys for Respondent
Skydive Arizona, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of August, 2012, I served a true and complete copy of the foregoing ANSWER by mailing it via first-class mail, postage prepaid, to:

Jimmie Pursell
Jennings, Strouss & Salmon, PLC
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Phoenix, AZ 85004
Attorneys for Petitioner

By: /David G. Barker/
David G. Barker