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

Proceeding	92054139
Party	Defendant Stiletto Brands, LLC
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Submission	Answer
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Date	08/01/2011
Attachments	Stiletto - Answer.pdf (4 pages)(262524 bytes)

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

In the Matter of Registration No. 3712427
Issued on November 17, 2009

PHENIX BRANDS, LLC

Petitioner,

v.

STILETTO BRANDS, LLC,

Respondent.

Cancellation No. 92054139

ANSWER TO PETITION FOR CANCELLATION OF REGISTRATION

Stiletto Brands, LLC (“Respondent”), hereby answers the allegations contained in the Petition for Cancellation of Registration (the “Petition”) filed by Phenix Brands, LLC (“Petitioner”), as follows:

1. Respondent admits that the records of the USPTO indicate that Petitioner is the owner of record of U.S. Trademark Application Nos. 85/103922, 85/069427, and 85/041352. Respondent is without knowledge or information sufficient to form a belief as to the remaining allegations contained in Paragraph 1 of the Petition, and on that basis, denies those allegations.

2. Respondent admits that the records of the USPTO indicate that Petitioner is the owner of record of U.S. Trademark Application No. 85/069427, covering the mark SHPILKA and filed June 23, 2010 for “Distilled Spirits; Potable Spirits; Spirits; Spirits and liqueurs.”

3. Respondent admits that the records of the USPTO indicate that U.S. Trademark Application No. 85/069427 was refused registration by the USPTO under §2(d) of the U.S. Trademark Act, 15 U.S.C. §1052(d) because of a likelihood of confusion with U.S. Trademark Registration No. 3712427, owned by Respondent, based on the doctrine of foreign equivalents.

4. Respondent denies the allegation that it is no longer using the mark which is the subject of U.S. Trademark Registration No. 3712427. Respondent admits that the records of the USPTO indicate that U.S. Trademark Application No. 85/069427 was refused registration by the USPTO under §2(d) of the U.S. Trademark Act, 15 U.S.C. §1052(d) because of a likelihood of confusion with U.S. Trademark Registration No. 3712427, owned by Respondent. Respondent is without knowledge or information sufficient to form a belief as to the remaining allegations contained in Paragraph 4 of the Petition, and on that basis, denies those allegations.

5. Respondent denies the allegation that it has abandoned the mark which is the subject of U.S. Trademark Registration No. 3712427.

6. Respondent admits that the records of the USPTO indicate that Petitioner's U.S. Trademark Application No. 85/069427 has been refused registration by the USPTO based on Respondent's U.S. Trademark Registration No. 3712427. Respondent denies the remaining allegations contained in Paragraph 6 of the Petition.

AFFIRMATIVE DEFENSES

DEFENSE NO. 1

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

DEFENSE NO. 2

2. Petitioner is not entitled to maintain this Petition by reason of lack of trademark rights in, and lack of a valid application for, Petitioner's purported mark "SHPIILKA."

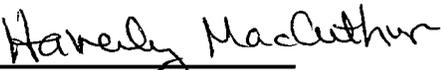
Respondent has not knowingly or intentionally waived any applicable affirmative defenses and reserves the right to raise additional affirmative defenses as they become known to it through discovery in this matter. Respondent further reserves the right to amend its Answer

and/or affirmative defenses accordingly and/or to delete affirmative defenses that it determines are not applicable during the course of subsequent discovery.

Wherefore, having made full answer to the Petition, Respondent respectfully requests that the Petition be dismissed and that U.S. Trademark Registration No. 3712427 be maintained.

Respectfully submitted,

Date: August 1, 2011

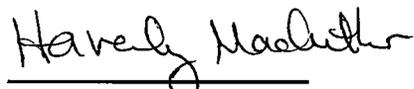

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ATTORNEYS FOR RESPONDENT/
COUNTER-PETITIONER

CERTIFICATE OF SERVICE

I certify that a true and complete copy of the foregoing Answer to Petition for Cancellation of Registration has been served on Petitioner's counsel by mailing said copy on August 1, 2011, via First Class Mail, postage prepaid to:

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Attorney