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Filing date: **08/24/2011**

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

Proceeding	92054255
Party	Defendant The McCormick Team, Inc.
Correspondence Address	THE MCCORMICK TEAM INC 30765 PACIFIC COAST HWY SUITE #358 MALIBU, CA 90265 UNITED STATES
Submission	Answer
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Date	08/24/2011
Attachments	8.24.11. Answer to Petition for Cancellation.pdf (4 pages)(105331 bytes) 8.24.11. Certificate of Mailing.pdf (1 page)(17580 bytes)

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

In the matter of Registration No. 3,758,243
For the mark OUTSELL YOURSELF
Date registered: March 9, 2010

Outsell, Inc.,

Petitioner,

- v. -

Cancellation No.: 92054255

The McCormick Team, Inc.,

Respondent.

ANSWER TO PETITION FOR CANCELLATION

Respondent hereby answers the Petition for Cancellation as follows:

1. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Cancellation Petition, (“the Petition”) and therefore denies same.

2. Respondent admits that on or about July 9, 2002, U.S. Trademark Registration No. 2,590,294 for the mark OUTSELL S & DESIGN was granted, with a claim of first use and first use in commerce in 1994. Respondent is without information sufficient to form a belief as to the truth of the remaining allegations in paragraph 2 and therefore denies same.

3. Respondent admits that on or about March 19, 2008, that Respondent filed a application in the U.S. Patent and Trademark Office to register the mark “OUTSELL YOURSELF,” and that Registration No. 3,758,243 was granted on that application on March 9, 2010, on the Principal Register for use on or in connection with the goods and services listed in

the registration certificate. Respondent is without information sufficient to form a belief as to the remaining allegations of paragraph 3 and therefore denies same.

4. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Petition, and therefore denies same.

5. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Petition, and therefore denies same.

6. Respondent admits that Petitioner filed, on or about March 1, 2010, and applications Ser. No. 77/947,789 and 77/952,168 to register the mark OUTSELL and OUTSELL S & DESIGN on the Principal Register in connection with the goods and services set forth in those applications.

7. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Petition, and therefore denies same.

8. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Cancellation Petition, and therefore denies same.

9. Respondent admits that on January 16, 2011, Office Actions issued in connection with Petitioner's then pending registration applications and cited Respondent's Registration No. 3,758,243 for OUTSELL YOURSELF against the pending registration applications. Respondent denies all further allegations of paragraph 9 of the Petition.

10. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Cancellation Petition, and therefore denies same.

11. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Cancellation Petition, and therefore denies same.

12. Admitted.

13. Denied.

14. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 14 of the Petition, and therefore denies same.

15. Denied.

16. On information and belief, Petitioner is not related to the Respondent. The remaining allegations of paragraph 16, to the extent they are understood, are denied due to the lack of information sufficient to form a belief in their truth.

17. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 17 of the Petition, and therefore denies same.

18. Respondent is without information sufficient to form a belief as to the truth of the allegations in paragraph 18 of the Petition, and therefore denies same.

DEFENSES

1. The Petition fails to state a claim upon which cancellation of the Respondent's registration can be granted.

2. On information and belief, Petitioner has abandoned its use of the mark "Outsell" on at least some of the goods/services on which it claims priority of use over Respondent's use of "Outsell Yourself."

3. The term "Outsell," when used alone, is a weak mark due to widespread unrestrained use by users other than the parties, on goods/services similar to Petitioner's.

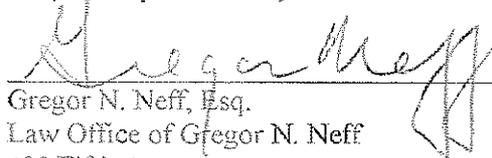
4. The Petitioner is estoppel by the principles of res judicata and collateral estoppel to claim likelihood of confusion between Petitioner's and Respondent's use, respectively, of "Outsell Yourself" and "Outsell" on their respective goods/services stated in Respondent's Registration and Petitioner's pending registration applications.

5. Even if Petitioner's claim has some merit with respect to some of the goods/services in Respondent's registration, Respondent still is entitled to a registration for use of its mark "Outsell Yourself" on others of the goods/services more specific to the goods/services sold by Respondent under the mark.

WHEREFORE, Respondent hereby requests that the Cancellation Petition be dismissed. Respondent hereby appoints Gregor N. Neff, a member in good standing of the Bar of the State of New York, to act as its attorney for responding herein, with full power to defend against said Petition, to transact all relevant business with the U.S. Patent and Trademark Office, and to receive all official communication in connection with this Petition.

DATE: August 24, 2011

Respectfully submitted,

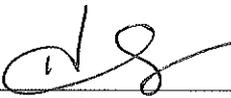


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Certificate of Mailing

I, Hi Soo Sung, do certify that on August 24, 2011, this **Answer to Petition for Cancellation** was filed via electronic means (ESTTA) with the:

U.S. Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451



Hi Soo Sung

Certificate of Service

I, Hi Soo Sung, hereby certify that on August 24, 2011, mailed by First Class Mail, postage pre-paid, a true and correct copy of this **Answer to Petition for Cancellation** to the following representative:

Christine B. Redfield
K&L Gates LLP
630 Hansen Way
Palo Alto, CA 94304



Hi Soo Sung