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

Proceeding	92054279
Party	Defendant Idea International Co., Ltd.
Correspondence Address	M SCOTT ALPRIN ALPRIN LAW OFFICES 5 Pinehurst Circle, N.W. WASHINGTON, DC 20015 UNITED STATES trademarks@alprinlaw.com
Submission	Answer
Filer's Name	M. Scott Alprin
Filer's e-mail	trademarks@alprinlaw.com
Signature	/M. Scott Alprin/
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Attachments	Earth Heart v. Idea Int'l - Answer PDF.pdf (3 pages)(11991 bytes)

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

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)	
EARTH HEART, INC.,)	
)	
Petitioner,)	
)	
v.)	Petition to Cancel No. 92054279
)	
)	Reg. No. 3995953 (petitioned registration)
IDEA INTERNATIONAL CO., LTD.,)	
)	
Applicant.)	
)	
-----)	

ANSWER TO PETITION TO CANCEL

COMES NOW Applicant Idea International Co., Ltd., (“Applicant”), by and through counsel, and responds to the Petition to Cancel filed by Earth Heart, Inc. (“Petitioner”), by responding to each enumerated paragraph of the said Petition to Cancel. Any allegation in the Petition not specifically admitted herein is denied.

1. Although Petitioner’s statements in Par. 1 appear to be accurate based on information available on the USPTO database, Applicant lacks sufficient knowledge and information upon which to form a conclusive belief as to the truth of the allegations set forth in Paragraph 1, and therefore denies the same.

2. Applicant lacks sufficient knowledge and information upon which to form a conclusive belief as to the truth of the allegations set forth in Paragraph 2, and therefore denies the same.

3. Applicant lacks sufficient knowledge and information upon which to form a conclusive belief as to the truth of the allegations set forth in Paragraph 3, and therefore denies the same.

4. Applicant lacks sufficient knowledge and information upon which to form a conclusive belief as to the truth of the allegations set forth in Paragraph 4, and therefore denies the same.

5. Applicant lacks sufficient knowledge and information upon which to form a conclusive belief as to the truth of the allegations set forth in Paragraph 5, and therefore denies the same.

6. Although Petitioner's statements in Par. 6 appear to be accurate based on information available on the USPTO database, Applicant lacks sufficient knowledge and information upon which to form a conclusive belief as to the truth of the allegations set forth in Paragraph 6, and therefore denies the same.

7. Applicant lacks sufficient knowledge and information upon which to form a conclusive belief as to the truth of the allegations set forth in Paragraph 7 related to the referenced search report, and therefore denies the same. Applicant notes that the warning in the research report that Applicant's mark could potentially be a "blocking mark" of Petitioner's mark did not come to fruition, as Petitioner's mark was approved for publication on August 15, 2011, according to information available on the USPTO website. Applicant notes that the registration number set forth in Paragraph 7 is incorrect.

8. Applicant lacks sufficient knowledge and information upon which to form a conclusive belief as to the truth of the allegations set forth in Paragraph 8, and therefore denies the same.

9. Applicant admits the truth of the allegations set forth in Paragraph 9.

10. Applicant denies the truth of the allegations set forth in Paragraph 10, and notes that the phrase "is using" is inaccurate, as Applicant can only admit that it has a bona fide intent to use its mark in commerce in the United States in connection with the goods listed in its application.

11. Applicant admits the truth of the allegations set forth in Paragraph 11.

12. Applicant denies the truth of the allegations set forth in Paragraph 12.

13. Applicant denies the truth of the allegations set forth in Paragraph 13, as the allegations in the paragraph are premised on the truth of the allegations in Paragraph 13 (note that the paragraph starts with the wording "as such"), which were denied.

14. Applicant denies the truth of the allegations set forth in Paragraph 14.

15. Applicant denies the truth of the allegations set forth in Paragraph 15.

16. Applicant denies the truth of the allegations set forth in Paragraph 16.

WHEREFORE, Applicant respectfully prays that Judgment be entered for Applicant and against Petitioner in this proceeding, that the Petition to Cancel be dismissed, and that Applicant's registration be allowed to continue to exist as a Live mark on the Principal Register.

Registrant will assert any affirmative defense or compulsory or permissive counterclaim that may be developed throughout discovery and testimony periods in this proceeding.

Respectfully submitted,

IDEA INTERNATIONAL CO., LTD.,

Date: September 6, 2011

/M. Scott Alprin/

M. Scott Alprin
Attorney for Applicant
ALPRIN LAW OFFICES
5 Pinehurst Circle, N.W.
Washington, D.C. 20015
Tel: (202) 659-8225
Fax: (202) 659-0441

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Answer to Petition to Cancel** has been served on Petitioner via e-mail, on September 6, 2011, to Matthew H. Swyers, counsel for Petitioner, at:

mswyers@thetrademarkcompany.com

/M. Scott Alprin/
M. Scott Alprin