

ESTTA Tracking number: **ESTTA445619**

Filing date: **12/09/2011**

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

Proceeding	92054318
Party	Defendant de la barracuda
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Submission	Answer
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Date	12/09/2011
Attachments	ANSWER to PETITION.PDF (7 pages)(192880 bytes)

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

In the Matter of:
Registration No. 3,422,644
Registered: May 6, 2008

Fabi S.p.A.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92054318
)	
De La Barracuda Inc.,)	
)	
Registrant.)	
)	

TRADEMARK TRIAL AND APPEAL BOARD
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO PETITION TO CANCEL

De La Barracuda Inc. (“Registrant”) by and through its attorney of record, answers each allegation in the Petition to Cancel filed by Fabi S.p.A. (“Petitioner”), as follows:

Registrant denies that Petitioner is, or has been, damaged by the continued registration of the mark “de la barracuda”, Registration No. 3,422,644 .

1. Answering paragraph 1, Registrant denies that Petitioner submitted U.S. Trademark Application No. 79/086,366 on June 23, 2010. The U.S. filing date for 79/086,366 is September 23, 2010. Registrant lacks sufficient knowledge or information to form a belief as to the truth of the remaining portion of paragraph 1 of the Petition to Cancel and on that basis denies the same.

2. Answering paragraph 2, Registrant admits that Exhibit B contains information regarding International Registration details for No. 104831. Respondent lacks sufficient knowledge or information to form a belief as to the truth of the remaining portion of paragraph 2 of the Petition to Cancel and on that basis denies the same.

3. Answering paragraph 3, Registrant admits that Exhibit C contains copies of International Registration No. 1239198 and 786849. Respondent lacks sufficient knowledge or information to form a belief as to the truth of the remaining portion of paragraph 3 of the Petition to Cancel and on that basis denies the same.

4. Answering paragraph 4, Registrant admits that Petitioner's application for the BARRACUDA MARK is associated with "shoes" under International Class 025.

5. Answering paragraph 5, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 5 of the Petition to Cancel and on that basis denies the same.

6. Answering paragraph 6, Registrant admits Registrant filed Application No. 77/273,196 for "de la barracuda" on September 6, 2007 in International Class 025 for Baseball caps; Caps; Cargo pants; Flip flops; Footwear for men and women; Golf caps; Hats; Pants; Polo shirts; Short-sleeved or long-sleeved t-shirts; Sport shirts; Sweat pants; Sweat shirts; T-shirts; Woolly hats.

7. Answering paragraph 7, Registrant admits Registration No. 3,422,644 for "de la barracuda" was registered with the USPTO on May 6, 2008 and that Exhibit D shows a copy of the registration.

8. Answering paragraph 8, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 8 of the Petition to Cancel and on that basis denies the same.

9. Answering paragraph 9, Registrant denies each and every allegation in paragraph 9 of the Petition to Cancel.

10. Answering paragraph 10, Registrant denies that Registrant made false statements and representations to the USPTO on September 6, 2007 in connection with Serial No. 77/273,196. Registrant admits Exhibit E shows data as entered for Serial No. 77/273,196 on September 2007.

11. Answering paragraph 11, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 11 of the Petition to Cancel and on that basis denies the same.

12. Answering paragraph 12, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 11 of the Petition to Cancel and on that basis denies the same.

13. Answering paragraph 13, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 13 of the Petition to Cancel and on that basis denies the same.

14. Answering paragraph 14, Registrant denies each and every allegation in paragraph 14 of the Petition to Cancel.

15. Answering paragraph 15, Registrant denies each and every allegation in paragraph 15 of the Petition to Cancel.

16. Answering paragraph 16, Registrant admits that Registrant was incorporated in the state of California on or about June 22, 2007. Registrant denies each and every allegation in the remaining portion of paragraph 16.

17. Answering paragraph 17, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 17 of the Petition to Cancel and on that basis denies the same.

18. Answering paragraph 18, Registrant denies each and every allegation in paragraph 18 of the Petition to Cancel.

19. Answering paragraph 19, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 19 of the Petition to Cancel and on that basis denies the same.

20. Answering paragraph 20, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 20 of the Petition to Cancel and on that basis denies the same.

21. Answering paragraph 21, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 21 of the Petition to Cancel and on that basis denies the same.

22. Answering paragraph 22, Registrant denies each and every allegation in paragraph 22 of the Petition to Cancel.

23. Answering paragraph 23, Registrant denies each and every allegation in paragraph 23 of the Petition to Cancel.

24. Answering paragraph 24, Registrant denies each and every allegation in paragraph 24 of the Petition to Cancel.

25. Answering paragraph 25, Registrant denies each and every allegation in paragraph 25 of the Petition to Cancel.

26. Answering paragraph 26, Registrant denies each and every allegation in paragraph 26 of the Petition to Cancel.

27. Answering paragraph 27, Registrant denies each and every allegation in paragraph 27 of the Petition to Cancel.

28. Answering paragraph 28, Registrant denies each and every allegation in paragraph 28 of the Petition to Cancel.

29. Answering paragraph 29, Registrant denies each and every allegation in paragraph 29 of the Petition to Cancel.

30. Answering paragraph 30, Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 30 of the Petition to Cancel and on that basis denies the same.

31. Answering paragraph 31, Registrant denies each and every allegation in paragraph 31 of the Petition to Cancel.

32. Answering paragraph 32, Registrant denies each and every allegation in paragraph 32 of the Petition to Cancel.

33. Answering paragraph 33, Registrant denies each and every allegation in paragraph 33 of the Petition to Cancel.

AFFIRMATIVE DEFENSES

By way of further answer and affirmative defenses, Applicant alleges as follows:

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 by service to its attorney by mail said copy on December 9, 2011 via first class mail, postage paid to:

Charles C.H. Wu
Wu & Cheung LLP
98 Discovery
Irvine, CA 92618



Daniel S. Kim
Attorney for Registrant