ESTTA Tracking number: **ESTTA456198**
Filing date: **02/13/2012**

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

Proceeding	92054990
Party	Defendant LEGO JURIS A/S
Correspondence Address	DAVID EHRLICH FROSS ZELNICK LEHRMAN & ZISSU PC 866 UNITED NATIONS PLAZA NEW YORK, NY 10017 UNITED STATES
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Date	02/13/2012
Attachments	Answer to Petition to Cancel (F0957702).PDF (7 pages)(285370 bytes)

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

In the Matter of Registration No. 2,273,314

BEST-LOCK GROUP, BEST-LOCK CONSTRUCTION TOYS, INC, BEST-LOCK LIMITED HONG KONG, Petitioners, -against- LEGO JURIS A/S, Registrant.	Cancellation No. 92054990

REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION

Registrant Lego Juris A/S ("Registrant"), a Denmark Corporation, located at Koldingvej 2, DK-7190 Billund, Denmark, as and for its answer to Petitioner's Petition for Cancellation, by and through its counsel Fross Zelnick Lehrman & Zissu, P.C., states as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Petition for Cancellation and of the preamble paragraph that precedes paragraph 1, except admits that Petitioner is a manufacturer and seller of children's toys.

2. Denies the allegations in paragraph 2 of the Petition for Cancellation, except admits that Registrant owns Reg. No. 2,273,314 and avers that the registration and assignment information connected therewith speaks for themselves.

3. Denies the allegations in paragraph 3 of the Petition for Cancellation.

4. Denies the allegations in paragraph 4 of the Petition for Cancellation.

5. Admits the allegations contained in paragraph 5 of the Petition for Cancellation.

6. Denies the allegations contained in paragraph 6 of the Petition for Cancellation.

7. Denies the allegations in paragraph 7 of the Petition for Cancellation, except admits that Registrant was aware of the Christiansen Patent.

8. Denies the allegations contained in paragraph 8 of the Petition for Cancellation, except admits that the Christiansen Patent exists and speaks for itself.

9. Denies the allegations in paragraph 9 of the Petition for Cancellation, except admits that Registrant was aware of the Christiansen Patent at the time that the Lego Application was filed.

10. Denies the allegations in paragraph 10 of the Petition for Cancellation.

11. Denies the allegations contained in paragraph 11 of the Petition for Cancellation.

12. Denies the allegations contained in paragraph 12 of the Petition for Cancellation, except admits that it did not inform the Office of the Page and Christiansen patents, but denies that it had any obligation to do so, and avers that the March 30, 1998 Office Action Response speaks for itself.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Petition for Cancellation.

14. Denies the allegations contained in paragraph 14 of the Petition for Cancellation.

15. Denies the allegations contained in paragraph 15 of the Petition for Cancellation, except admits that the Lego Application was filed by Fross Zelnick Lehrman & Zissu, P.C. on behalf of Kirkbi, and avers that the Lego Application speaks for itself.

16. Denies the allegations contained in paragraph 16 of the Petition for Cancellation and avers that Exhibit E to the Petition speaks for itself.

17. Denies the allegations contained in paragraph 17 of the Petition for Cancellation.

18. Denies the allegations contained in paragraph 18 of the Petition for Cancellation, except admit that construction toys with "pins" have been sold by third parties prior to the filing of the Lego Application.

19. Denies the allegations contained in paragraph 19 of the Petition for Cancellation, and avers that the December 22, 1997 Office Action speaks for itself.

20. Admits the allegations contained in paragraph 20 of the Petition for Cancellation.

21. Denies the allegations contained in paragraph 21 of the Petition for Cancellation.

22. Denies the allegations contained in paragraph 22 of the Petition for Cancellation, except admits that the June 5, 1998 Office Action includes a refusal to register the Lego Application based on a finding that "the proposed mark consists of a nondistinctive configuration of the container or packaging for the goods."

23. Denies the allegations contained in paragraph 23 of the Petition for Cancellation, except admits that in its December 2, 1998 Response to the June 5, 1998 Office Action, Kirkbi requested that the application be amended to Section 2(f), and further requested that the description of the mark be amended to read as follows: "The mark consists of a cylindrical surface feature and is not the configuration of the entire product or packaging."

24. Denies the allegations contained in paragraph 24 of the Petition for Cancellation, except admits that it Kirkbi's Declaration in Support of Acquired Distinctiveness Under Section 2(f), dated November 27, 1998, was filed on December 2, 1998, and supported Kirkbi's Office Action Response filed December 2, 1998, and avers that it speaks for itself.

25. Denies the allegations contained in paragraph 25 of the Petition for Cancellation.

26. Denies the allegations contained in paragraph 26 of the Petition for Cancellation.

27. Denies the allegations contained in paragraph 27 of the Petition for Cancellation.

28. Denies the allegations contained in paragraph 28 of the Petition for Cancellation.

29. Denies the allegations contained in paragraph 29 of the Petition for Cancellation.

30. Denies the allegations contained in paragraph 30 of the Petition for Cancellation, except admits the first sentence.

31. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 31 of the Petition for Cancellation.

32. Denies the allegations contained in the first sentence of paragraph 32 of the Petition for Cancellation, and denies knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 32 of the Petition for Cancellation.

33. Denies the allegations contained in paragraph 33 of the Petition for Cancellation avers that the March 8, 2011 Customs Office Letter speaks for itself.

34. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 34 of the Petition for Cancellation.

35. Denies the allegations contained in paragraph 35 of the Petition for Cancellation.

36. Denies the allegations contained in paragraph 36 of the Petition for Cancellation, except admits that along with its February 1, 2005 Section 8 and 15 Declarations, Kirkbi submitted a specimen to support its application at issue that consisted of a photograph of container that included a lid with six pins, and that such specimen was not a specimen showing its pin on a toy block.

37. Denies the allegations contained in paragraph 37 of the Petition for Cancellation.

38. Denies the allegations contained in paragraph 38 of the Petition for Cancellation, except admits the first three sentences.

39. Denies the allegations contained in paragraph 39 of the Petition for Cancellation, except admits that the Patent and Trademark Office accepted the renewal application referenced therein, and denies knowledge or information concerning Petitioner's allegations contained in the penultimate sentence in paragraph 39 of the Petition for Cancellation.

40. Denies the allegations contained in paragraph 40 of the Petition for Cancellation.

41. Denies the allegations contained in paragraph 41 of the Petition for Cancellation.

42. Denies the allegations contained in paragraph 42 of the Petition for Cancellation.

43. Denies the allegations contained in paragraph 43 of the Petition for Cancellation.

44. Denies the allegations contained in paragraph 44 of the Petition for Cancellation.

45. Denies the allegations contained in paragraph 45 of the Petition for Cancellation, except admits that Registrant has not made a trademark infringement claim against Petitioners based on the registration at issue.

46. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 46 of the Petition for Cancellation.

47. Denies knowledge or information concerning Petitioner's allegations contained in paragraph 47 of the Petition for Cancellation, except admits that the Lego Registration referenced therein has been recorded with the United States Customs and Border Protection.

48. Denies the allegations contained in paragraph 48 of the Petition for Cancellation.

49. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 49 of the Petition for Cancellation.

50. Denies the allegations contained in paragraph 50 of the Petition for Cancellation.

FIRST AFFIRMATIVE DEFENSE
(Laches)

51. Petitioners' claims are barred by their own delay and laches: they did not oppose

Registrant's application and they delayed for over twelve years since the filing of the Registrant's application in bringing this proceeding, to the prejudice of Registrant.

52. On information and belief, Petitioners have had knowledge or constructive knowledge of the Lego Registration due to its having been a matter of public record displayed open and notoriously since at least as early as its registration date on August 31, 1999.

SECOND AFFIRMATIVE DEFENSE
(Violation of Fed. R. Civ. P. 8)

53. The Petition for Cancellation violates Fed. R. Civ. p. 8 (a) which requires a "short and plain statement of the claim showing that the pleader is entitled to relief." Accordingly, the Registrant is not obligated to separately admit or deny each of the multiple allegations contained in the numerous sentences and clauses of the paragraphs contained therein.

WHEREFORE Registrant requests that the Petition for Cancellation be dismissed with prejudice in its entirety.

Dated: New York, New York
February 13, 2012

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By:

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Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the REGISTRANT'S ANSWER TO PETITION OF CANCELLATION was sent by prepaid first-class mail this 13th day of February, 2012 to:

Robert C. Faber, Esq.
Ostrolenk Faber LLP
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New York, New York 10036-8403

John P. Margiotta