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

Proceeding	92055158
Party	Defendant Racer Productions, Inc.
Correspondence Address	RACER PRODUCTIONS INC 122 VISTA DEL RIO MORGANTOWN, WV 26508 UNITED STATES
Submission	Answer
Filer's Name	Andrew G. Fusco
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Signature	/Andrew G. Fusco/
Date	03/23/2012
Attachments	Respondent Registrant's Answer and Affirmative Defenses.pdf (10 pages) (23198 bytes)

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

IN THE MATTER OF REGISTRATION NO.: 3,208,173

MARK: GRAND NATIONAL CROSS COUNTRY

AMERICAN MOTORCYCLIST ASSOCIATION

Petitioner,

v.

RACER PRODUCTIONS INC.,

CANCELLATION NO. 92055158

Registrant.

RESPONDENT/REGISTRANT'S ANSWER AND AFFIRMATIVE DEFENSES

Respondent/Registrant, Racer Productions Inc. (hereinafter "Racer" or ("Respondent/Registrant")), through undersigned counsel, sets forth its Answer and Affirmative Defenses in Cancellation No. 92055158 as follows:

1. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Petition.
2. Respondent/Registrant denies the allegation contained in paragraph 2 of the Petition that Petitioner is engaged in, and has long engaged in, "conducting, organizing and officiating" motorcycle racing competitions. To the contrary, Petitioner is merely a sanctioning body that promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others.

3. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Petition.

4. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Petition.

5. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Petition.

6. Respondent/Registrant denies the allegations contained in paragraph 6 of the Petition. To the contrary, Petitioner uses the term “Grand Championships” in association with some of the motorcycle racing series that it sanctions.

7. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Petition.

8. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Petition.

9. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Petition.

10. Respondent/Registrant admits the allegations contained in paragraph 10 of the Petition.

11. Respondent/Registrant admits the allegations contained in paragraph 11 of the Petition.

12. Respondent/Registrant admits the allegations contained in paragraph 12 of the Petition.

13. Respondent/Registrant admits the allegations contained in paragraph 13 of the Petition, except Respondent/Registrant acknowledges that its allegation as to first use was in error and that its actual first use and first use in commerce of the Mark was at least as early as 1986.

14. Respondent/Registrant admits the allegations contained in paragraph 14 of the Petition.

15. Respondent/Registrant, upon information and belief, admits the allegations contained in paragraph 15 of the Petition.

16. Respondent/Registrant, upon information and belief, admits the allegations contained in paragraph 16 of the Petition.

17. Respondent/Registrant, upon information and belief, admits the allegations contained in paragraph 17 of the Petition.

18. Respondent/Registrant admits the allegations contained in paragraph 18 of the Petition.

19. Respondent/Registrant admits the allegations contained in paragraph 19 of the Petition.

20. Respondent/Registrant admits the allegations contained in paragraph 20 of the Petition.

21. Respondent/Registrant admits the allegations contained in paragraph 21 of the Petition.

22. Respondent/Registrant admits the allegations contained in paragraph 22 of the Petition.

23. Respondent/Registrant denies the allegation contained in paragraph 23 of the Petition that Petitioner has used the alleged Petitioner's Marks in association with the services of "conducting, organizing and officiating" motorcycle racing competitions. To the contrary, Petitioner is merely a sanctioning body that promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others.

24. Respondent/Registrant denies the allegations contained in paragraph 24 of the Petition. To the contrary, Petitioner uses the mark "Grand Championships" in association with some of the motorcycle racing series that it sanctions.

25. Respondent/Registrant denies the allegations contained in paragraph 25 of the Petition. To the contrary, Petitioner has never conducted, organized or officiated a Grand National Cross Country event. Petitioner is merely a sanctioning body that promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others

26. Respondent/Registrant denies the allegations contained in paragraph 26 of the Petition. To the contrary, Petitioner has never conducted, organized, or officiated a Grand National Cross Country event. To the contrary, Petitioner is merely a sanctioning body that

promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others.

27. Respondent/Registrant admits that prior to 2012, its use of the MARK was related to events sanctioned by Petitioner, as well as other sanctioning bodies. It is specifically denied that Petitioner has ever sponsored such events.

28. Respondent/Registrant specifically denies the allegation that its use of the MARK was on behalf of Petitioner. To the contrary, Petitioner is merely a sanctioning body that promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others, in this case, Respondent/Registrant. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 28 of the Petition.

29. Respondent/Registrant denies the allegations contained in paragraph 29 of the Petition.

30. Respondent/Registrant denies the allegations contained in paragraph 30 of the Petition.

31. Respondent/Registrant admits the allegations contained in paragraph 31 of the Petition.

32. Respondent/Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Petition.

33. Respondent/Registrant denies the allegations contained in paragraph 33 of the Petition.

34. Respondent/Registrant denies the allegations contained in paragraph 34 of the Petition.

35. Respondent/Registrant denies the allegations contained in paragraph 35 of the Petition.

36. Respondent/Registrant denies the allegations contained in paragraph 36 of the Petition.

37. Respondent/Registrant denies the allegations contained in paragraph 37 of the Petition.

38. Respondent/Registrant denies the allegations contained in paragraph 38 of the Petition.

39. Respondent/Registrant denies the allegations contained in paragraph 39 of the Petition.

40. Respondent/Registrant denies the allegations contained in paragraph 40 of the Petition.

AFFIRMATIVE DEFENSES

41. The facts set forth in the Petition for Cancellation are insufficient to state a claim or to justify cancellation of Respondent/Registrant's registration.

42. The claims set forth in the Petition for Cancellation lack merit and are insufficient to justify cancellation of Respondent/Registrant's registration. Respondent/Registrant is the originator of the Grand National Cross Country race series concept and MARK, and has been the sole and exclusive owner, developer and promoter of every event bearing its MARK. Petitioner has never conducted, organized or officiated a cross country motorcycle racing competition. To the contrary, Petitioner is merely a sanctioning body that promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others, in this case, Respondent/Registrant.

43. Petitioner's claims are barred because of the absence of likely confusion. Petitioner has never conducted, organized or officiated a cross country motorcycle racing competition. To the contrary, Petitioner is merely a sanctioning body that promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others, in this case, Respondent/Registrant. Hence, there is no possibility of likely confusion.

44. Petitioner's claims are barred by the doctrine of unclean hands and/or fraud. Respondent/Registrant is the originator of the Grand National Cross Country race series concept and MARK, and has been the sole and exclusive owner, developer and promoter of every event bearing its MARK. Petitioner has never conducted, organized or officiated a cross country motorcycle racing competition. To the contrary, Petitioner is merely a sanctioning body that promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others, in this case, Respondent/Registrant. In the fall of 2011, Respondent/Registrant informed Petitioner that it would no longer sanction its

GRAND NATIONAL CROSS COUNTRY events with Petitioner. In retaliation, Petitioner filed its Petition for Cancellation.

45. Petitioner's claims are barred by the doctrines of laches, estoppel and acquiescence. Petitioner has never conducted, organized or officiated a cross country motorcycle racing competition, and has never objected to Respondent/Registrant's use of the MARK originated, created and developed by Respondent/Registrant.

46. Petitioner has no standing to assert the claims in its Petition for Cancellation. Petitioner has never conducted, organized or officiated a cross country motorcycle racing competition. To the contrary, Petitioner is merely a sanctioning body that promulgates general rules of competition for use in motorcycle racing competitions conducted, organized, officiated and owned by others, in this case, Respondent/Registrant.

47. Petitioner's claims are barred by the doctrine of abandonment, failure to defend and protect, and lack of continuous use of the MARK. Petitioner did not seek trademark protection of the MARK and has never attempted to protect or defend the mark.

WHEREFORE, Respondent/Registrant prays that the Petition for Cancellation be denied and that Registration 3,208,173 for the mark "GRAND NATIONAL CROSS COUNTRY" be affirmed and the Petition dismissed.

Date: March 23, 2012

Respectfully submitted,

RACER PRODUCTIONS, INC.

By Counsel

/ Andrew G. Fusco /

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CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing **Respondent/Registrant's Answer And Affirmative Defenses** to be served, via first class mail, postage prepaid on this 23rd day of March 2012, to Petitioner at the address identified on the US Patent and Trademark Office's TARR database as follows:

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Standley Law Group LLP
6300 Riverside Drive
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/Andrew G. Fusco/

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