

ESTTA Tracking number: **ESTTA538470**

Filing date: **05/17/2013**

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

|                        |  |
|------------------------|--|
| Proceeding             | 92057018   |
| Party                  | Defendant<br>Mocana Corporation  |
| Correspondence Address | MOCANA CORPORATION<br>350 SANSOME STREET, SUITE 1010<br>SAN FRANCISCO, CA 94104<br>UNITED STATES |
| Submission             | Answer   |
| Filer's Name           | Rachel Tarko Hudson  |
| Filer's e-mail         | rhudson@sheppardmullin.com, mkahn@sheppardmullin.com   |
| Signature              | /rachel tarko hudson/  |
| Date                   | 05/17/2013   |
| Attachments            | 92057018Mocana.PDF(43958 bytes )   |



1. Mocana admits that Petitioner attached to the Petition as Exhibit A a document titled "Statement of Confusion in Support of Petition to Cancel Trademark Registration No. 4217478." Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the remaining allegations of Paragraph 1 of the Petition and on that basis denies each and every such allegation.

2. Mocana admits that on October 2, 2012, the United States Patent and Trademark Office ("USPTO") issued Trademark Registration No. 4217478 to Mocana and that Petitioner attached a copy of a document purporting to be Trademark Registration No. 4217478 to the Petition as Exhibit B.

3. Mocana admits that Petitioner attached documents purporting to be Trademark Registrations Nos. 3409146 and 3381897 to the Petition as Exhibit C which reflect Petitioner as registrant of Trademark Registrations Nos. 3409146 and 3381897. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the remaining allegations contained in Paragraph 3 of the Petition and on that basis denies each and every such allegation.

4. Mocana admits that Petitioner attached documents purporting to relate to a fictitious business name to the Petition as Exhibit D. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the remaining allegations contained in Paragraph 4 of the Petition and on that basis denies each and every such allegation.

5. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the allegations contained in Paragraph 5 of the Petition and on that basis denies each and every allegation contained therein.

6. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the allegations contained in Paragraph 6 of the Petition and on that basis denies each and every allegation contained therein.

7. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the allegations contained in Paragraph 7 of the Petition and on that basis denies each and every allegation contained therein.

8. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the allegations contained in Paragraph 8 of the Petition and on that basis denies each and every allegation contained therein.

9. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the allegations contained in Paragraph 9 of the Petition and on that basis denies each and every allegation contained therein.

10. Mocana denies the allegations of Paragraph 10 of the Petition.

11. Mocana admits that its services include educational services namely, conducting seminars, conferences, and workshops pertaining to the security of devices networked or connected to the Internet. Mocana denies all remaining allegations of Paragraph 11 of the Petition.

12. Mocana admits that its services are promoted at seminars, conferences, and workshops. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the remaining allegations contained in Paragraph 12 of the Petition and on that basis denies each and every such allegation.

13. Mocana admits that it uses the Mark in connection with educational services namely, conducting seminars, conferences and workshops pertaining to the security of devices

networked or connected to the Internet. Mocana admits that the attendees of its seminars, conferences and workshops typically emanate from internet technology based industries. Mocana denies all remaining allegations contained in Paragraph 13 of the Petition.

14. Mocana is without information or knowledge sufficient to permit it to form a belief as to the truth of the allegations contained in Paragraph 14 of the Petition and on that basis denies each and every allegation contained therein.

15. Mocana denies the allegations of Paragraph 15 of the Petition.

16. Mocana denies the allegations of Paragraph 16 of the Petition.

17. Mocana denies the allegations of Paragraph 17 of the Petition.

18. Mocana denies the allegations of Paragraph 18 of the Petition.

19. Mocana denies the allegations of Paragraph 19 of the Petition.

#### **AFFIRMATIVE DEFENSES**

1. Petitioner has failed to state a claim on which relief can be granted.

2. Petitioner has not and will not be damaged by the continued registration of the Mark because there is no likelihood of confusion with Petitioner's pleaded marks.

3. Petitioner has not and will not be damaged by the continued registration of the Mark because there is no confusing similarity between Mocana's services and Petitioner's goods.

4. Petitioner has not and will not be damaged by the continued registration of the Mark because there is no confusing similarity between Mocana's services and Petitioner's services.

5. Petitioner has not, and will not be damaged by the continued registration of the Mark, and therefore, does not have standing to petition for cancellation of the Mark.

6. Petitioner's claims set forth in the Petition are barred by the doctrines of waiver, acquiescence, and laches.

7. Petitioner's claims set forth in the Petition are barred by the doctrine of estoppel.

8. Petitioner's claims set forth in the Petition are barred by the doctrine of unclean hands.

Wherefore, Mocana denies that Petitioner is entitled to any relief sought in its Petition and prays that the Petition be dismissed with prejudice.

Dated: May 17, 2013

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By



Michelle D. Kahn  
Rachel Tarko Hudson  
Attorneys for Respondent  
MOCANA CORPORATION

Four Embarcadero Center, 17<sup>th</sup> Floor  
San Francisco, CA 94111  
TEL: (415) 434-9100  
FAX: (415) 434-3947

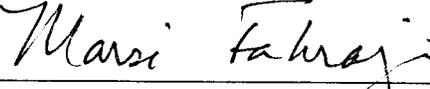
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Answer to Petition for Cancellation** was served on Petitioner Executive Safe and Security Corporation by First Class U.S. Mail, postage prepaid, to:

Lori M. Lofstrom, Esq.  
Holmes Lofstrom, PC  
3800 Kilroy Airport Way, Suite 250  
Long Beach, CA 90806

Attorneys for Petitioner

This 17<sup>th</sup> day of May, 2013

  
\_\_\_\_\_  
Marsi Fahraji