

ESTTA Tracking number: **ESTTA595843**

Filing date: **04/01/2014**

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

Proceeding	92058541
Party	Defendant Faulding Healthcare (IP) Holdings, Inc.
Correspondence Address	DANIEL F ZENDEL LADAS & PARRY LLP 1040 AVENUE OF THE AMERICAS NEW YORK, NY 10018-3738 UNITED STATES jharris@rwjplc.com
Submission	Answer
Filer's Name	Timothy L. Warnock
Filer's e-mail	twarnock@rwjplc.com, jharris@rwjplc.com, cvlahos@rwjplc.com
Signature	/Timothy L. Warnock/
Date	04/01/2014
Attachments	2014.04.01 Answer to Petition.pdf(18439 bytes )

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

In the Matter of Trademark:

Cancellation No.: 92058541  
Registration Nos.: 841,768; 845,518; 2,236,642  
Mark: SEA & SKI  
Registrant: Faulding Healthcare (IP) Holdings, Inc.

---

Mike Farr	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	Faulding Healthcare (IP) Holdings, Inc.’s,
Faulding Healthcare (IP) Holdings, Inc.,	)	Answer and Affirmative Defenses
	)	
Registrant.	)	
	)	
	)	
	)	
	)	

---

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir or Madam:

Faulding Healthcare (IP) Holdings, Inc.’s (“Faulding”) submits the following Answer and Affirmative Defenses to Petitioner Mike Farr’s (“Petitioner”) Petition for Cancellation of Registrations Nos. 841,768; 845,518 and 2,236,642 (“Registrations”).

**First Defense**

Petitioner failed to state a claim for cancellation of Faulding’s Registrations under 15 U.S.C. § 1064, for which relief can be granted.

### **Responses to Specific Allegations in Petition for Cancellation**

1. Faulding denies the allegation in paragraph 1 of the Petition.
2. Faulding admits the allegations in paragraph 2 of the Petition.
3. Faulding admits that it is a Delaware corporation but denies the accuracy of the mailing address listed in paragraph 3 of the Petition. Faulding further avers that its mailing address is 1845 Elm Hill Pike, Nashville, TN 37120.
4. Faulding admits the allegations in paragraph 4 of the Petition.
5. Faulding admits the allegations in paragraph 5 of the Petition.
6. Faulding denies the allegations in paragraph 6 of the Petition.
7. Faulding admits the allegations in paragraph 7 of the Petition.
8. Faulding denies the allegations in paragraph 8 of the Petition.
9. Faulding admits the allegations in paragraph 9 of the Petition.
10. Faulding denies the allegations in paragraph 10 of the Petition.
11. Faulding denies the allegations in paragraph 11 of the Petition.
12. Faulding denies the allegations in paragraph 12 of the Petition.

### **Affirmative Defenses**

1. Faulding's prior federal Registrations and renewals for the mark SEA & SKI entitle it to continue using the mark in commerce.
2. Petitioner's claims are barred by the doctrine of unclean hands.
3. Petitioner lacks standing to bring the Petition for Cancellation because Petitioner has not and cannot claim that he has been damaged.

s/ Timothy L. Warnock/

Timothy L. Warnock

Chris Vlahos

Riley Warnock & Jacobson, PLC

1906 West End Avenue

Nashville, Tennessee 37203

(615) 320-3700

[twarnock@rwjplc.com](mailto:twarnock@rwjplc.com)

[cvlahos@rwjplc.com](mailto:cvlahos@rwjplc.com)

*Attorneys for Registrant Faulding Healthcare (IP)  
Holdings, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer and Affirmative Defenses has been served on Mathew Temmerman, Temmerman Law Office, One Mark Street, Spear Tower, 36<sup>th</sup> Floor, San Francisco, CA 94105 via electronic service and U.S. Mail on April 1, 2014.

s/ Timothy L. Warnock/