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

Proceeding	92059099
Party	Plaintiff Carnevor, Inc.
Correspondence Address	STEPHEN L ANDERSON ANDERSON & ASSOCIATES 27280 VIA INDUSTRIA, UNIT B TEMECULA, CA 92590 UNITED STATES attorneys@brandxperts.com
Submission	Answer to Counterclaim
Filer's Name	Stephen L. Anderson
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Date	08/14/2014
Attachments	ANSWER TO COUNTERCLAIM FOR CANCELLATION.pdf(141260 bytes)

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

In the Matter of Registration No.: 4,326,591
Mark: DOG HAUS

CARNEVOR INC.)	Cancellation No.: 92059099
)	
Petitioner,)	PETITIONER’S ANSWER TO
)	COUNTERCLAIM FOR
vs.)	CANCELLATION
)	
DOG HAUS, LLC)	
)	
Respondent.)	
_____)	

Petitioner, Carnevor, Inc., a Corporation organized and existing under the laws of the State of California (“Petitioner”) hereby generally and specifically denies each and every allegation contained in the Counterclaim hereinafter not specifically admitted, modified, or qualified, and strict proof is demanded thereof. Petitioner further responds as follows:

1. Petitioner denies any and all other prefatory remarks and allegations in the paragraph 52 of Registrant’s Answer To Petition For Cancellation, Affirmative Defenses and Counterclaim (“Answer and Counterclaim”).
2. Petitioner admits only that the Respondent has alleged in paragraph 53 of its Answer and Counterclaim that it “seeks cancellation of Petitioner’s Registration (Registration No. 4336555) issued May 14, 2013, for the mark “HUND & BIER HAUS” (words only) in International Class 043 for the application filed on December 17, 2012, which subsists on the Supplemental Register. Petitioner denies that Respondent is entitled to any such relief.
3. As for paragraph 54 of the Answer and Counterclaim, Petitioner admits only that Respondent is identified within the USPTO Records as the owner of United States Trademark Certificate of Registration No. 4326591 for the mark “DOG HAUS” registered on April 30, 2013 in

connection with “café and restaurant services, catering services, and restaurant take out services.” However, Petitioner particularly denies that that the Registration “remains valid” and reasserts the allegations contained in its Petition For Cancellation of such alleged Registration.

4. As for paragraph 55 of the Answer and Counterclaim, Petitioner admits only that Respondent is identified within the USPTO Records as the owner of United States Trademark Registration No. 4202507 for the mark shown in said Registration as was registered on September 4, 2012 in connection with “Restaurant and café services; restaurant and catering services; restaurant services, namely, providing food and beverages for consumption on and off the premises; Take-out restaurant services” However, Petitioner particularly denies that that the Registration “remains valid” and reasserts the allegations contained in its own Petition For Cancellation of such alleged Registration.

5. Petitioner denies the allegations contained in paragraph 56 of the Answer and Counterclaim.

6. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the Answer and Counterclaim but does not strenuously dispute such allegations.

7. Petitioner denies the allegations contained in paragraph 58 of the Answer and Counterclaim.

8. Petitioner admits only that at some time in early 2014, its representatives were contacted by attorneys claiming to represent the Respondent. Petitioner denies the remaining allegations contained in paragraph 59 of the Answer and Counterclaim.

9. Petitioner admits only that at some time in early 2014, its representatives were contacted by attorneys claiming to represent the Respondent who demanded that Petitioner cease and desist from using the name HundeHaus in connection with any restaurant business.

10. Petitioner objects to the irrelevant, immaterial and improper allegations contained in paragraph 61 of the Answer and Counterclaim. (Fed. R. Ev. R. 408; Cal. Evidence Code 352)

11. Petitioner admits only that Respondent has rejected any and all attempts to resolve this matter, and has failed to act in any manner which would result in any fair, reasonable or satisfactory resolution of the issues presented and that Respondent has improperly asserted that it has exclusive rights in a designation that is highly and merely descriptive, if not plainly generic when applied to restaurant services and German-style hot dogs.

12. To the extent that the allegations contained in paragraph 63 of the Answer and Counterclaim are understood in context, Petitioner denies all such allegations.

13. Petitioner denies the allegations contained in paragraph 64 of the Answer and Counterclaim.

AFFIRMATIVE DEFENSES

A. Respondent's Answer and Counterclaim fails to state any claim upon which relief can be granted, and in particular, fails to state any legally sufficient grounds for sustaining the cancellation of Petitioner's Supplemental Registration No. 4,336,555.

B. There is no likelihood of confusion between any mark asserted by Respondent and the mark shown in Petitioner's Supplemental Registration No. 4,336,555.

C. Respondent's claims are barred by the doctrine of laches and/or the doctrine of estoppel.

Respectfully submitted,

ANDERSON & ASSOCIATES

Dated: August 14, 2014

by: /StephenLAnderson/
Stephen L. Anderson
27280 Via Industria, Unit B
Temecula, CA 92590

Attorney for Petitioner, CARNEVOR, INC.

Certificate of Service

I hereby certify that on the date set forth below, a copy of the foregoing

PETITIONER'S ANSWER TO COUNTERCLAIM FOR CANCELLATION

Is/was sent via first-class mail, postage prepaid, to the Respondent at the address of its attorney of record namely:

Walter M. Crandall
ROBERTSON & OLSEN, LLP,
9696 Culver Boulevard, Suite 302
Culver City, California 90232

Dated: August 14, 2014

By: /StephenLAnderson/
Stephen L. Anderson