

ESTTA Tracking number: **ESTTA637179**

Filing date: **11/05/2014**

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

Proceeding	92060148
Party	Defendant Opici I.P. Holdings, LLC
Correspondence Address	OPICI IP HOLDINGS LLC 25 DEBOER DRIVE GLEN ROCK, NJ 07452 UNITED STATES
Submission	Answer
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Signature	/John Rannells/
Date	11/05/2014
Attachments	92060148 Answer and Affrm Def 11-5-14.pdf(43578 bytes )

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

In re United States Registration No. 4407601  
Filing Date: October 11, 2011

Luxco, Inc.,	)	
	)	
Petitioner,	)	Mark: REBELLION RUM
	)	Reg. No. 4609989
v.	)	
	)	<b>Cancellation No. 92060148</b>
Opici IP Holdings LLC,	)	
	)	
Registrant.	)	

**ANSWER AND AFFIRMATIVE DEFENSES  
TO PETITION FOR CANCELLATION**

Registrant, Opici IP Holdings, LLC, (“Registrant”), by and through its attorneys Baker and Rannells, PA, for its Answer and Affirmative Defenses to the Petition for Cancellation filed by Petitioner, Luxco, Inc. (“Petitioner”), alleges on knowledge as to its own acts and otherwise upon information and belief as follows:

**ANSWER**

1. Admitted
2. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 2 of the Petition for Cancellation except that it admits the issuance of Registrations for Nos. 727786 and 3632812.
3. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 3 of the Petition for Cancellation and therefore denies the same.

4. The allegations contained in Paragraph 4 of the Petition for Cancellation do not call for a response.
5. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 5 of the Petition for Cancellation and therefore denies the same.
6. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 6 of the Petition for Cancellation and therefore denies the same.
7. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 7 of the Petition for Cancellation and therefore denies the same.
8. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 8 of the Petition for Cancellation and therefore denies the same.
9. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 9 of the Petition for Cancellation and therefore denies the same.
10. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 10 of the Petition for Cancellation and therefore denies the same.
11. Admitted except that it denies Petitioner's prior rights and asserts that Reg. No. 4609989 issued without a refusal ever being issued by the Examining Attorney.
12. Denied.

13. Denied.

14. Registrant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 10 of the Petition for Cancellation and therefore denies the same.

15. Denied.

16. Denied.

17. Denied

**AFFIRMATIVE DEFENSES**

18. As and for a first defense, the Petition for Cancellation is barred by the acquiescence and laches in that the respective marks of the parties coexisted with the knowledge of and without prior legal action from Petitioner.

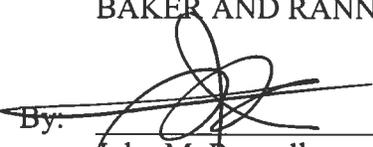
19. As and for a second defense, the Petition for Cancellation is barred by the doctrine of waiver and estoppel.

20. As and for a third defense, the Petition for Cancellation is barred by Petitioner's failure to challenge the use of Rebel and variations thereof on related goods and services by unrelated third parties.

WHEREFORE, Petitioner requests that the petition to cancel Registration No. 4609989 be denied.

Dated: November 5, 2014

BAKER AND RANNELLS, PA

By: 

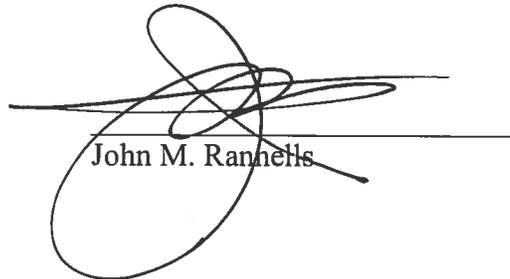
John M. Rannells  
Stephen L. Baker  
Attorney for Registrant  
575 Route 28, Suite 102

Raritan, New Jersey 08869  
(908) 722-5640

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO PETITION FOR CANCELLATION AND COUNTERCLAIMS has been served on Petitioner by first class mail this 5<sup>th</sup> day of November, 2014 as follows:

Andrew Gilfoil, Esq.  
HUSCH BLACKWELL LLP  
190 Carondelet Plaza, Suite 600  
St. Louis, MO 63108



John M. Rannels