

ESTTA Tracking number: **ESTTA649566**

Filing date: **01/12/2015**

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

Proceeding	92060436
Party	Defendant Creditera
Correspondence Address	CREDITERA 3630 W SOUTH JORDAN PKWY SUITE 202 SOUTH JORDAN, UT 84095 UNITED STATES
Submission	Answer
Filer's Name	F. Chad Copier
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Signature	/F. Chad Copier/
Date	01/12/2015
Attachments	21212 - Answer.pdf(31627 bytes)

2. Respondent lacks knowledge or information sufficient to form a belief about the truth of the assertions in ¶2 of the Petition, and thereby denies the assertions in ¶2.

3. Respondent admits the assertions in ¶3.

4. Respondent lacks knowledge or information sufficient to admit or deny the assertions in ¶4, and thereby denies the assertions in ¶4.

5. Respondent lacks knowledge or information sufficient to admit or deny the assertions in ¶5 of the Petition, and therefore denies the assertions in ¶5.

6. Respondent lacks knowledge or information sufficient to admit or deny the assertions in ¶6 of the Petition, and therefore denies the assertions in ¶6.

7. Respondent lacks knowledge or information sufficient to admit or deny the assertions in ¶7 of the Petition, and therefore denies the assertions in ¶7.

8. Respondent lacks knowledge or information sufficient to admit or deny the assertions in ¶8 of the Petition, and therefore denies the assertions in ¶8.

9. Respondent admits that the date of first use listed in the **ECREDIT** mark information maintained by the USPTO precedes that of the **CREDITERA** mark, but lacks knowledge or information sufficient to admit or deny the remaining assertions in ¶9 of the Petition, and therefore denies the remaining assertions in ¶9.

10. Respondent admits the assertions in ¶10.

11. Respondent admits the assertions in ¶11.

12. Respondent lacks knowledge or information sufficient to admit or deny the assertions in ¶12 of the Petition, and therefore denies the assertions in ¶12.

13. Respondent lacks knowledge or information sufficient to admit or deny the assertions in ¶13 of the Petition, and therefore denies the assertions in ¶13.

14. Respondent denies the assertions in ¶14. Respondent provides services which are unique and covered by multiple patents pending. As, such, the services provided by Respondent are presumed to be not “identical” to those provided by Petitioner.

15. Respondent admits the assertions in ¶15 being that no such consent, authorization, or license is required.

16. Respondent incorporated the responses to the previous paragraphs in response to the assertions in ¶16.

17. Respondent denies the assertions made in ¶17. There is no likelihood of confusion. Any allegation of the Petition to Cancel that is not admitted herein is expressly denied. Respondent denies that the Petitioner is entitled to the relief sought in the Petition to Cancel.

THEREFORE, Respondent requests that the Petition to Cancel be dismissed.

Affirmative Defenses

First Affirmative Defense: No Likelihood of Confusion

18. Petitioner’s mark and Respondent’s mark are different in appearance.
19. Petitioner’s mark and Respondent’s mark are different in spelling.
20. Respondent’s mark is unique and distinctive.
21. Petitioner’s mark and Respondent’s mark create different commercial impressions.
22. There has been no actual confusion.
23. Petitioner’s marketing materials do not resemble Respondent’s marketing materials in appearance.

24. Petitioner's website pages and presentation do not resemble Respondent's website pages and presentation in appearance.
25. Petitioner's mark is neither famous nor well known.
26. Respondent's mark is not likely to disparage or falsely suggest a trade connection between Petitioner and Respondent.
27. In order for Petitioner to offer identical services as Respondent, Petitioner would have to license Respondent's protected technology and know-how.
28. Petitioner's mark and Respondent's mark have different consumer bases as the products and services offered differ in important ways, which are noticeable to consumers, and which provide obvious increased value to the customers of Respondent.

Second Affirmative Defense: Failure to State a Claim

29. Petitioner's Petition for Cancellation fails to state a claim upon which relief can be granted.

WHEREFORE, the Respondent respectfully requests that the Petitioner's Petition to Cancel be denied.

Dated: January 12, 2015

Respectfully submitted,



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Attorney for Respondent, Creditera

CERTIFICATE OF SERVICE

I hereby certify that the Answer to Amended Petition was delivered via email, fax, and deposited with the US Postal service to Petitioner's counsel David O. Johanson on January 12, 2015 at the following addresses/numbers.

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Email david.johanson@morganlewis.com

A handwritten signature in black ink, appearing to read 'F. Chad Copier', written over a horizontal line.

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Attorney for Respondents, Creditera