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

Proceeding	92060802
Party	Defendant Drip International Inc.
Correspondence Address	DRIP INTERNATIONAL INC 2711 CENTERVILLE RD, SUITE 400 WILMINGTON, DE 19808 UNITED STATES
Submission	Answer
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Date	03/13/2015
Attachments	Answer.pdf(111927 bytes)

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

COLE EGGER, Petitioner, Vs. DRIP INTERNATIONAL INC. Registrant.	Proceeding No. 92060802 Mark: DRIP Registration No. 4644330 Registered: Nov. 25, 2014
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**REGISTRANT’S ANSWER AND AFFIRMATIVE DEFENSES TO PETITIONER’S
NOTICE OF CANCELLATION**

Registrant, **DRIP INTERNATIONAL INC.** (“Registrant”), through its undersigned attorney, submits its Answer and Affirmative Defenses to the Notice of Cancellation (“Cancellation”) filed by **COLE EGGER** (“Petitioner”) on February 2, 2015 as follows:

In response to the grounds for cancellation enumerated in Petitioner’s Electronic System for Trademark Trials and Appeals (“ESTTA”) Notice of Cancellation form, Registrant denies that there are any grounds to sustain the cancellation and denies that Petitioner owns any mark(s) sufficient to constitute a basis for this Cancellation.

In response to the first unnumbered paragraph, Registrant admits that the records of the Trademark Status and Document Retrieval (“TSDR”) of the United States Patent and Trademark Office (“USPTO”) reflect that Registrant owns Registration No. 4644330. Except as expressly admitted, Registrant denies each and every remaining allegation in the first unnumbered paragraph of the Cancellation.

1. In response to Paragraph 1, Registrant admits that the records of the TSDR of the USPTO reflect that Registrant received a registration for the mark DRIP on November 25, 2014 in International Class 42 for “Providing on-line non-downloadable software for social media management and productivity services for use in curating, organizing, optimizing, scheduling, distributing, tracking, analyzing, outbound and inbound multimedia content on multiple social networking services via computers, mobile phones, tablets, wired and wireless communication devices.” Registrant further admits that the records of the TSDR of the USPTO reflect that Registrant claimed a date of first use of August 1, 2013.
2. In response to Paragraph 2, Registrant responds that Registrant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 2 and, therefore, denies each and every allegation in paragraph 2 of the Cancellation.
3. In response to Paragraph 3, Registrant denies each and every allegation in paragraph 3 of the Cancellation.
4. In response to paragraph 4, Registrant denies each and every allegation in paragraph 4 of the Cancellation.
5. In response to Paragraph 5, Registrant denies each and every allegation in paragraph 5 of the Cancellation.

In response to the final unnumbered paragraph, Registrant denies each and every remaining allegation in the final unnumbered paragraph of the Cancellation.

AFFIRMATIVE DEFENSES

By way of further answer, Registrant alleges and asserts the following defenses in response to the allegations contained in the Notice of Cancellation. In this regard, Registrant

undertakes the burden of proof only as to those defenses that are deemed affirmative defenses by law, regardless of how such defenses are denominated in the instant Answer. Registrant reserves the right to assert other affirmative defenses as this cancellation proceeds based on further discovery, legal research, or analysis that may supply additional facts or lend new meaning or clarification to Petitioner's claims that are not apparent on the face of the Notice of Cancellation.

FIRST AFFIRMATIVE DEFENSE
FAILURE TO STATE A CLAIM

6. Petitioner's claims are barred because the Notice of Cancellation fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE
LACK OF STANDING

7. Petitioner's claims are barred, in whole or in part, because Petitioner does not have standing in that Petitioner does not have rights, superior or otherwise, sufficient to support the Notice of Cancellation.

THIRD AFFIRMATIVE DEFENSE
INSUFFICIENT PRIOR EXCLUSIVE RIGHTS

8. Petitioner's claims are barred, in whole or in part, because Petitioner cannot establish prior exclusive rights in the United States sufficient to support the Notice of Cancellation.

FOURTH AFFIRMATIVE DEFENSE
NO INJURY OR DAMAGE

9. Petitioner's claims are barred, in whole or in part, because Petitioner has not and will not suffer any injury or damage from the continued registration of Registrant's mark.

FIFTH AFFIRMATIVE DEFENSE
NON-USE

10. Petitioner's claims are barred, in whole or in part, by Petitioner's failure to make use of its mark as a trademark, service mark, or otherwise a source identifier.

SIXTH AFFIRMATIVE DEFENSE
NO BASIS

11. Petitioner has no basis either in law or fact, to sustain a cancellation of Registrant's mark.

SEVENTH AFFIRMATIVE DEFENSE
LACK OF LIKLIHOOD OF CONFUSION

12. In the alternative, Registrant argues that Petitioner does not own common law rights or any registered marks that would be confused with Registrant's mark in terms of sight, sound, meaning and commercial impression.
13. Registrant's mark differs in terms of sight, sound, and meaning from Petitioner's claimed mark and has a distinct commercial impression from Petitioner's claimed mark.
14. Registrant's mark does not create a likelihood of confusion among the relevant purchasing public that Registrant's services are offered, are sponsored by, or are otherwise endorsed by Petitioner. Nor does Registrant's use or continued registration of Registrant's mark create the likelihood that consumers will falsely believe that Registrant and Petitioner are affiliated in any way.

EIGHTH AFFIRMATIVE DEFENSE

15. Registrant reserves the right to assert any and all other affirmative defenses of which it becomes aware during the pendency of this matter.

WHEREFORE, Registrant requests judgment as follows:

1. That the Notice of Cancellation be dismissed with prejudice;
2. That Registrant be granted further reasonable and appropriate relief.

Dated: March 13, 2015

Respectfully Submitted,

/s/ Chris Civil

Christopher Civil
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Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of REGISTRANT'S ANSWER TO PETITIONER'S NOTICE OF CANCELLATION is being served by mailing a copy thereof, by United Parcel Service addressed to the following individuals, identified in the Notice of Cancellation as the attorneys of record and correspondents on this 13th day of March, 2015:

Molly Buck Richard
James F. Struthers
Richard Law Group, Inc.
8411 Preston Road, Suite 890
Dallas, Texas 75225

and a courtesy copy via email to:

molly@richardlawgroup.com
jim@richardlawgroup.com

/s/ Chris Civil

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