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

Proceeding	92061510
Party	Defendant Schlep and Fetch, Inc.DBA Schlep & Fetch
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Date	08/26/2015
Attachments	Answer to Petition for Cancellation.pdf(12865 bytes)

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

Shleppers Holdings, LLC,

Petitioner,

v.

Schlep & Fetch, Inc.,

Registrant.

Proceeding No. 92061510

Registration No. 4,716,395

Mark: WE SCHLEP WITH ALL YOUR
FRIENDS

ANSWER TO PETITION FOR CANCELLATION

Registrant Schlep & Fetch, Inc. (“Registrant”), through its undersigned counsel, hereby answers the Petition for Cancellation (“Petition”) filed May 13, 2015 by Plaintiff Shleppers Holdings, LLC (“Petitioner”), as follows:

With respect to the introductory paragraph of the Petition, Registrant admits that it is a California corporation having an address of 4300 West Jefferson Blvd., Hangar 6, Los Angeles, California 90016 and that Registrant owns Registration No. 4,716,395 (hereinafter, the “Registration”) duly registered on April 7, 2015 for “Courier services; Laundry pick-up and delivery services; Postal, freight and courier services; Providing room service delivery services to hotels and condominiums; Shipping and delivery services, namely, pickup, transportation, and delivery of packages and letters by various modes of transportation; Transportation and delivery services by air, road, rail and sea; Transportation and delivery services, namely, same day shipment services” in Class 39 (hereinafter, “Registrant’s Services”). Registrant denies that the continued existence of the Registration causes any damage to Petitioner. Registrant is without information sufficient to admit or deny the remaining allegations of the introductory paragraph in the Petition, and therefore denies the same.

Registrant answers the numbered paragraphs of the Petition as follows:

1. Registrant is without information sufficient to admit or deny the allegations of Paragraph 1 in the Petition, and therefore denies the same.
2. Registrant is without information sufficient to admit or deny the allegations of Paragraph 2 in the Petition, and therefore denies the same.
3. Registrant admits only that United States Patent and Trademark Office (“USPTO”) online records show Petitioner is owner of Registration No. 3,318,229 for the mark SHLEPPERS for the services listed in Paragraph 3 to the Petition. Registrant further admits that it filed for its Registration after the registration date of Registration No. 3,318,229. Registrant denies the remaining allegations of Paragraph 3 to the Petition.
4. Registrant admits only that USPTO online records show Petitioner is owner of Registration No. 4,497,875 for the stylized wording SHLEPPERS for the services listed in Paragraph 4 to the Petition. Registrant further admits that it filed for its Registration after the registration date of Registration No. 4,497,875. Registrant denies the remaining allegations of Paragraph 4 to the Petition.
5. Registrant admits the allegations of Paragraph 5 to the Petition.
6. Registrant denies the allegations of Paragraph 6 to the Petition.
7. Registrant denies the allegations of Paragraph 7 to the Petition.

To the extent any allegations are set forth in the remaining, unnumbered paragraphs of the Petition, and to the extent any allegations contained in the Petition are not specifically admitted above, Registrant denies those allegations.

Affirmative Defenses

1. Failure to state a claim upon which relief may be granted. TBMP § 311.02(b),

Note 2.

2. Upon information and belief, Petitioner is not entitled to the full scope of Petitioner's pleaded registrations due to lack of use in commerce.

3. Registrant is at least entitled to a registration with a restriction that its registration excludes some or all of the services described in Petitioner's pleaded registrations. Such a restriction would avoid a likelihood of confusion at least because Registrant is not using its marks on those services.

WHEREFORE, Registrant respectfully requests that its Registration be maintained on the USPTO's Principal Register and that all relief sought by Petitioner be denied.

Respectfully submitted,

By: /s/ Kimberly A. Warshawsky

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Inc.

CERTIFICATE OF SERVICE

I hereby certify that on today's date I caused a true and correct copy of the foregoing Answer to be served by United States First Class mail upon the attorneys of record for Petitioner set forth below:

Yuval H. Marcus
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Dated: August 26, 2015

/s/ Stephanie Rhinehart
Stephanie Rhinehart