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

|                        |   |
|------------------------|---|
| Proceeding             | 92062356  |
| Party                  | Defendant<br>Air 1st Aviation Companies, Inc. dba Air 1st   |
| Correspondence Address | AIR 1ST AVIATION COMPANIES INC DBA AIR 1ST<br>234 AIR PARK BLVD<br>AIKEN, SC 29805<br>UNITED STATES<br>leah@air1st.com, mike@air1st.com |
| Submission             | Answer  |
| Filer's Name           | Mitchell B. Snyder  |
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| Signature              | /Mitchell B. Snyder/  |
| Date                   | 11/05/2015  |
| Attachments            | SKMBT_42315110517510.pdf(1761174 bytes )  |

IN THE UNITED STATES PATENT AND TRADEMARK  
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|  |   |                            |
|--|---|----------------------------|
| Concorde Battery Corporation                 | ) | Cancellation No. 92062356  |
|  | ) |                            |
| Petitioner,                                  | ) | Registration No. 4,726,130 |
|  | ) |                            |
| v.   | ) | Registered: April 28, 2015 |
| Air 1 <sup>st</sup> Aviation Companies, Inc. | ) |                            |
| AKA Air 1 <sup>st</sup>                      | ) | Mark: PLATINUM SERIES MU-2 |
|  | ) |                            |
| Registrant.                                  | ) |                            |

Registrant Air 1<sup>st</sup> Aviation Companies, Inc.’s Answer to Petition for Cancellation

Registrant Air 1<sup>st</sup> Aviation Companies, Inc (“Registrant”) hereby answers the Petition for Cancellation filed by Petitioner Concorde Battery Corporation (“Petitioner”) as follows:

In response to the introductory unnumbered paragraph, Registrant denies Petitioner’s allegation that it will be damaged by the continued existence on the Principal Register of the mark PLATINUM SERIES MU-2 for “refurbished airplanes” in International Class 12 as shown in Registration No. 4,726,130. Registrant also shows that the application for Registration No. 4,726,130 was signed on October 11, 2013 and therefore denies it was registered on April 28, 2015 but admits that a Registration Certificate was issued on April 28, 2015. Registrant admits that its principal office address is 234 Air Park Blvd, Aiken, SC 29805-8921 and that Registrant registered the Mark and is a corporation organized and existing under the laws of the State of Georgia. Furthermore Registrant denies each allegation of the Petition for Cancellation except as specifically admitted or otherwise qualified below. For its answer to each particular paragraph, Registrant states and alleges as follows:

1. Registrant lacks sufficient knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and, therefore, denies the same.

2. In response to paragraph 2, Registrant responds that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 2 and, therefore, denies the same. Registrant admits that based on the United States Patent and Trademark Office documents available online it does appear that Concorde Battery Corporation is the owner of U.S. Registration No. 2,734,038 for the mark "Platinum Series" with a Registration Date of July 8, 2003 and is registered for "AIRCRAFT BATTERIES".

3. Registrant responds that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 3 and, therefore, denies each and every allegation in paragraph 3.

4. Registrant responds that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 4 and, therefore, denies each and every allegation in paragraph 4.

5. Registrant admits it filed the Application with the U.S. Patent and Trademark Office to register PLATINUM SERIES MU-2 (Serial No. 86/089,204) in connection with "refurbished airplanes" in International Class 12 on October 11, 2013 and that the Registrant listed its first use in commerce date and first use at least as early as August 21, 2012. Except as expressly admitted, Registrant denies each and every allegation in paragraph 5.

6. Registrant admits the application, Serial No. 86/069,204 was issued a registration certificate on April 28, 2015.

7. Registrant responds that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 7 and, therefore, denies each and every allegation in paragraph 7.

8. Registrant denies that its mark for PLATINUM SERIES MU-2 is similar in appearance, sound, connotation, and commercial impression to Petitioner's PLATINUM SERIES mark.

9. Registrant admits that MU-2 refers to a type of airplane. Registrant denies that the MU-2 component of Registrant's mark does not distinguish it from Registrant's mark and further denies that the MU-2 component is weak, and is not proprietary to Registrant.

10. Registrant denies each and every allegation in paragraph 10.

11. Registrant lacks sufficient knowledge or information to form a belief as to the truth of Petitioner's belief. Registrant denies the remainder of Paragraph 11.

12. Registrant denies the allegations contained in Paragraph 12.

13. Registrant denies the allegations contained in Paragraph 13.

14. Registrant denies the allegations contained in Paragraph 14 except that Registrant is without sufficient knowledge or information to form a belief as to the truth of Petitioner's belief.

#### FIRST DEFENSE

15. Petitioner has not pleaded any law or fact that justify the cancellation of Registrant's mark "PLATINUM SERIES MU-2".

#### SECOND DEFENSE

16. Registrant has for years demonstrated valid use in commerce of the now-registered mark, "PLATINUM SERIES MU-2," including in advertisements, on its Website, and generally

in commerce which display PLATINUM SERIES MU-2 in a manner in which customers will recognize it as a mark, with means of ordering the goods, in this case a telephone number.

17. The United States Patent and Trademark Office issued a registration certificate on April 28, 2015 which recognized that Registrant's mark, "PLATINUM SERIES MU-2" was entitled to a trademark.

18. Registrant is entitled to the continued use of its trademark and a denial of the petition for cancellation.

### THIRD DEFENSE

19. Petitioner has used and promoted its registered mark exclusively in connection with a specific battery and, as a result, Petitioner will not be damaged by Registrant's mark associated with refurbished airplanes.

20. Petitioner's claims are barred, in whole or in part, because Petitioner has not and will not suffer any injury or damage from the existence on the Principal Register of the mark PLATINUM SERIES MU-2 for "refurbished airplanes" in International Class 12 as shown in Registration No. 4,726,130.

### FOURTH DEFENSE

21. Registrant's mark differs in terms of the overall meaning and has a distinct commercial impression from the Petitioner's mark.

22. Registrant's adoption and use of the term PLATINUM SERIES MU-2 distinguishes itself from the Petitioner's mark of PLATINUM SERIES because an MU-2 refers to a specific type of aircraft as opposed to a battery.

23. Registrant's marks are directed to a different market segment than Petitioner's marks.

24. Registrant's use and registration of Registrant's mark does not create a likelihood of confusion, to cause mistake, and to deceive potential customers.

#### FIFTH DEFENSE

25. Upon information and belief, the adoption and use of the terms PLATINUM SERIES is part of numerous registered and other common law third party marks for goods in a variety of International Classes that are not owned by Petitioner. Thus, confusion is unlikely given the coexistence of the numerous PLATINUM SERIES marks. The existence of such registered third party marks requires that the Petitioner's mark be narrowly construed, such that Petitioner's mark cannot—as a matter of law—form the basis of likelihood of confusion claim against Registrant's mark.

#### SIXTH DEFENSE

26. Registrant has used its mark in the United States and has not experienced any confusion with Petitioner, Petitioner's mark, or Petitioner's goods. On information and belief, Petitioner has not experienced any actual confusion either.

#### SEVENTH DEFENSE

27. Petitioner's claims are barred by the doctrine of laches, waiver, acquiescence and/or estoppel.

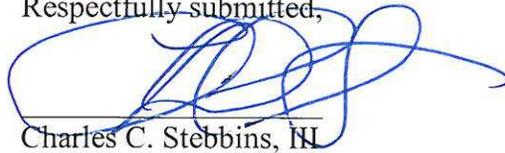
#### PRAYER FOR RELIEF

WHEREFORE, having fully answered the Petition for Cancellation, Air 1<sup>st</sup>  
Aviation Companies, Inc. respectfully prays:

1. That the Petition for Cancellation be dismissed with prejudice;
2. That the Registration No. 4,726,130 be allowed to remain on the Principal Register;
3. That registrant be awarded its reasonable attorney's fees and costs; and
4. That Registrant be granted further reasonable and appropriate relief as the Board deems just and proper.

This 5th day of November, 2015.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Registrant Air 1<sup>st</sup> Aviation Companies, Inc.'s Answer to Petition for Cancellation has been served on counsel for Concorde Battery Corporation, by mailed said copy on November 5, 2015, via First Class U.S. Mail, postage prepaid to:

Edwin Komen, Esq.  
Susan Hwang, Esq.  
Paul Bost, Esq.  
Sheppard, Mullin, Richter & Hampton, LLP  
2099 Pennsylvania Avenue, NW, Suite 100  
Washington DC 20006-6801

And additionally will be transmitted electronically through the ESTTA Filing System to the United States Patent and Trademark Office on this day.

This 5th day of November, 2015.

A handwritten signature in blue ink that reads "Mitchell B. Snyder". The signature is written in a cursive style and is positioned above a horizontal line.

Mitchell B. Snyder