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Filing date: **06/25/2007**

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

|                        |   |
|------------------------|---|
| Proceeding             | 91177338  |
| Party                  | Defendant<br>Panda Limited, Inc<br>Panda Limited, Inc<br>7270 NW 66th Street<br>Miami, FL 33166 |
| Correspondence Address | PANDA LIMITED, INC<br>7270 NW 66TH ST<br>MIAMI, FL 33166-3008<br><br>pandafloors@msn.com        |
| Submission             | Answer  |
| Filer's Name           | Mark Falkin   |
| Filer's e-mail         | mark@trademarkfalkin.com  |
| Signature              | /mark falkin/   |
| Date                   | 06/25/2007  |
| Attachments            | PandaBamboo_OppAnswer.pdf ( 4 pages )(157589 bytes )  |

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

**In the Matter of**      Opposition No. 91177338  
                                 Serial No. 78749766  
**Mark:**                    **PANDA BAMBOO**

|   |
|---|
| Panda Lumber International, Inc.<br><br>Opposer<br><br>v.<br><br>Panda Limited, Inc.<br><br>Applicant |
|---|

**ANSWER OF APPLICANT**

**Box TTAB**  
Commissioner for Trademarks  
P.O. Box 1451  
Arlington, VA 22313-1451

Commissioner:

Applicant, Panda Limited, Inc., a corporation doing business at 7270 NW 66<sup>th</sup> Street, Miami, Florida 33166, in answer to the Opposition of the Opposer, Panda Lumber International, Inc., states that:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 1 of the Opposition.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 2 of the Opposition.
3. Applicant admits the averments set forth in paragraph 3 of the Opposition.
4. Applicant admits the averments set forth in paragraph 4 of the Opposition.
5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 5 of the Opposition.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 6 of the Opposition.
7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 7 of the Opposition.
8. Applicant admits the averments set forth in paragraph 8 of the Opposition.
9. Applicant is unable to respond to paragraph 9 of the Opposition as it does not aver any facts.
10. Applicant denies the averments set forth in paragraph 10 of the Notice of Opposition.
11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 11 of the Opposition.
12. Applicant denies the averments set forth in paragraph 12 of the Opposition.
13. Applicant denies the averments set forth in paragraph 13 of the Notice of Opposition.
14. Applicant denies the averments as to secondary meaning set forth in paragraph 14 of the Notice of Opposition.

#### FIRST AFFIRMATIVE DEFENSE

15. The Notice of Opposition fails to state any basis under the Lanham act, 15 U. S.C. §1063(a), to sustain an Opposition of Applicant's mark.

#### SECOND AFFIRMATIVE DEFENSE

16. The Opposition is barred by estoppel.

#### THIRD AFFIRMATIVE DEFENSE

17. The Opposition is barred by Opposer's acquiescence.

FOURTH AFFIRMATIVE DEFENSE

18. The Opposition is barred by the doctrine of waiver.

FIFTH AFFIRMATIVE DEFENSE

19. Opposer is barred by laches from pursuing its claims against Applicant.

SIXTH AFFIRMATIVE DEFENSE

20. All of Applicant's actions were and are fair, privileged and justified.

SEVENTH AFFIRMATIVE DEFENSE

21. The mark cited by Opposer (Ser. No. 77076237) as the basis for this Opposition is in no way similar to Applicant's mark. Nowhere in Opposer's cited mark do the words PANDA or BAMBOO appear. There can be no likelihood of confusion between Opposer's cited mark and Applicant's mark.

EIGHTH AFFIRMATIVE DEFENSE

22. Opposer is not the owner of the mark PANDA LUMBER. Opposer attempted to register the mark PANDA LUMBER (and Design) in 2004 (Ser. No. 78340387), but was denied by the USPTO Examiner due to the likelihood of confusion with PANDA PLY (& Design) (Reg. No. 2857984). Such application went abandoned on February 14, 2005.

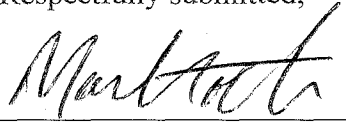
NINTH AFFIRMATIVE DEFENSE

23. Opposer has not suffered any loss or damage of any kind or character as a result of Applicant's conduct or any failure to act by Applicant.

WHEREFORE, the Applicant prays that:

- A. The Board refuses to sustain the Opposition of the Opposer;
- B. The Board finds that there is no basis in fact to support the Opposition of the Opposer;
- C. The Board dismiss this Opposition; and
- D. The Board grant such other and further relief as justice may require.

Respectfully submitted,



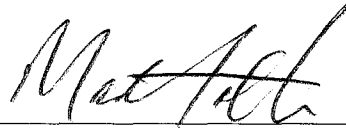
Mark G. Falkin  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the June 25, 2007, a copy of this Answer was deposited with the U.S. Postal Service, postage prepaid, in an envelope addressed to:

Dale F. Regelman, Esq.  
Chandler & Udall, LLP  
4801 E. Broadway Blvd., Suite 400  
Tucson, AZ 85711-3609



Mark G. Falkin

**CERTIFICATE OF FILING**

The undersigned certifies that on June 25, 2007 this document was filed in the U.S. Patent and Trademark Office online via the ESTTA.



Mark G. Falkin