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

Proceeding	92052713
Party	Plaintiff Premium Denim, LLC
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Submission	Answer to Counterclaim
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Date	10/14/2010
Attachments	Reply To Counterclaim - BETTE PAIGE.pdf (4 pages)(27842 bytes)

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

PREMIUM DENIM, LLC

Petitioner,

v.

SAND K., INC.

Registrant.

AND RELATED COUNTERCLAIMS

Cancellation No. 92052713

Registration No.: 2,244,182

Mark: BETTE PAIGE

Attorney Ref. No. 66884-0046

PETITIONER PREMIUM DENIM, LLC'S REPLY TO COUNTERCLAIM

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Petitioner Premium Denim, LLC ("Petitioner"), by and through its attorneys, hereby submits its Reply to the Counterclaim for Cancellation (the "Counterclaim") filed by registrant Sand K., Inc. ("Registrant"). Unless indicated differently, each paragraph below corresponds with the paragraph of the Counterclaim bearing the same number. To the extent Registrant incorporates the allegations and denials contained in its Answer and Affirmative Defenses into the Counterclaim, Petitioner denies all such allegations and defenses.

Petitioner responds to the first unnumbered paragraph of the Counterclaim as follows: Petitioner admits it owns U.S. Reg. Nos. 3,566,793, 3,191,044, 3,301,653 and 3,308,211. Petitioner further admits that each of the foregoing registrations in all respects speaks for itself. Except as explicitly admitted and alleged herein, Petitioner denies each and every remaining allegation contained in the first unnumbered paragraph of the Counterclaim.

To the extent any additional unnumbered paragraphs, captions or headings in the Counterclaim are treated as allegations, such allegations are hereby denied.

1. Petitioner admits that U.S. Reg. No. 2,244,182 in all respects speaks for itself. Except as expressly admitted and alleged herein, Petitioner lacks sufficient knowledge and information regarding the allegations contained in Paragraph 1 of the Counterclaim to admit or deny and, on that basis, denies each and every remaining allegation contained therein.

2. Petitioner lacks sufficient knowledge and information regarding the allegations contained in Paragraph 2 of the Counterclaim to admit or deny and, on that basis, denies each and every allegation contained therein.

3. Petitioner lacks sufficient knowledge and information regarding the allegations in Paragraph 3 of the Counterclaim that relate to Registrant's claimed use of the mark in U.S. Reg. No. 2,244, 182 to admit or deny and, on that basis, denies each such allegation contained therein. The remaining allegations contained in Paragraph 3 of the Counterclaim are legal conclusions and require no response from Petitioner. To the extent a response is required, Petitioner denies each and every remaining allegation contained in Paragraph 3 of the Counterclaim.

4. Petitioner denies each and every allegation contained in Paragraph 4 of the Counterclaim.

5. Petitioner denies each and every allegation contained in Paragraph 5 of the Counterclaim.

6. Petitioner denies each and every allegation contained in Paragraph 6 of the Counterclaim.

7. Petitioner denies each and every allegation contained in Paragraph 7 of the Counterclaim.

AFFIRMATIVE DEFENSES

In addition to the foregoing, and as separate and distinct affirmative defenses to Registrant's claims, Petitioner alleges as follows:

FIRST AFFIRMATIVE DEFENSE

8. The Counterclaim, and each alleged claim for relief therein, fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

9. On information and belief, U.S. Reg. No. 2,244,182, and the mark therein, have been abandoned.

THIRD AFFIRMATIVE DEFENSE

10. Registrant's claims are barred by the doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE

11. Registrant's claims are barred by the doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE

12. Registrant's claims are barred by the doctrines of waiver and/or acquiescence.

FURTHER AFFIRMATIVE DEFENSES

13. Registrant is without sufficient information to know at the present time whether additional affirmative defenses may be applicable to this action. Accordingly, Registrant expressly reserves the right to assert further affirmative defenses should it learn that any such defenses are available.

Dated: October 14, 2010

/S/ JESSICA C. BROMALL

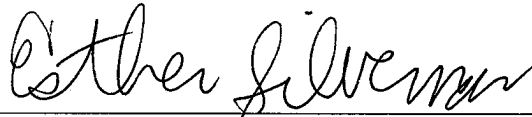
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CERTIFICATE OF SERVICE

It is hereby certified that on October 14, 2010, copies of the foregoing PETITIONER PREMIUM DENIM, LLC'S REPLY TO COUNTERCLAIM have been sent by first class mail, postage prepaid, in envelopes addressed to:

SAND K., INC.
2211 Saybrook Avenue
City of Commerce
California 90040

SAND K., INC.
1100 John Reed Court
City of Industry
California 91746



Esther Silverman