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

Proceeding	92054840
Party	Defendant Backcountry.com, Inc.
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Submission	Answer
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Date	01/03/2012
Attachments	Answer to Petition for Cancellation.pdf (7 pages)(20797 bytes)

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

NSM RESOURCES CORPORATION,	Cancellation No. 92054840
Petitioner,	Mark: DEPARTMENT OF GOODS
v.	U.S. Registration No. 3,836,095
BACKCOUNTRY.COM, INC.,	Mark: HUCKN ROLL
Registrant.	U.S. Registration No. 3,891,836

ANSWER

Applicant Backcountry.com, Inc. (“Backcountry”) hereby answers and defends against the Petition for Cancellation (the “Petition”) filed by NSM Resource Corporation (“NSM”) as follows:

FIRST DEFENSE

Backcountry hereby denies each and every allegation of the Petition except as expressly admitted in this Answer. The Petition consists of fifteen paragraphs. Backcountry responds to the allegations of those fifteen paragraphs as follows:

Paragraph 1: Backcountry does not have sufficient information to admit or deny the allegations of paragraph 1 and therefore denies the same.

Paragraph 2: Backcountry admits that it is a Utah corporation.

Paragraph 3: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Registration No. 3,244,135 for HUCK (the “‘135 registration”) and therefore denies the same. Backcountry admits that the ‘135 registration was issued on May 22, 2007 and that it includes goods in International Class 28. Backcountry denies that paragraph 3 accurately describes the goods covered by the ‘135 Registration.

Paragraph 4: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Registration No. 3,430,612 for Huck (the “‘612 registration”) and therefore denies the same. Backcountry admits that the ‘612 registration was issued on May 20, 2008 and that it covers “Dog toys” in International Class 28.

Paragraph 5: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Registration No. 3,435,920 for HUCK (the “‘920 registration”) and therefore denies the same. Backcountry admits that the ‘920 registration was issued on May 27, 2008 and that it includes goods in International Class 25. Backcountry denies that paragraph 5 accurately describes the goods covered by the ‘920 registration.

Paragraph 6: Backcountry does not have sufficient information to admit or deny the allegations of paragraph 6 and therefore denies the same.

Paragraph 7: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Registration No. 3,557,381 for HUCK DOLL (the “‘381 registration”) and therefore denies the same. Backcountry admits that the ‘381 registration was issued on January 6, 2009 and that it covers “Stickers” in International Class 16.

Paragraph 8: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Registration No. 3,667,579 for HUCK (the “‘579 registration”) and therefore denies the same. Backcountry admits that the ‘579 registration was issued on August 11, 2009, and that it covers “Backpacks” in International Class 18.

Paragraph 9: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Registration No. 3,781,240 for HUCK DOLL (the “‘240 registration”) and therefore denies the same. Backcountry admits that the ‘240 registration was issued on April 27,

2010, and that it includes goods in International Class 25. Backcountry denies that paragraph 9 accurately describes the goods covered by the ‘240 registration.

Paragraph 10: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Application No. 85/446,268 for HUCK DOLL (the “‘268 application”) and therefore denies the same. Backcountry admits that the ‘268 application was filed on October 13, 2011 and that it includes services in International Class 35. Backcountry denies that paragraph 10 accurately describes the services covered by the ‘268 application.

Paragraph 11: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Application No. 85/457,866 for HUCK NEWS (the “‘866 application”) and therefore denies the same. Backcountry admits that the ‘866 application was filed on October 27, 2011 and that it includes services in International Class 41. Backcountry denies that paragraph 11 accurately describes the services covered by the ‘866 application.

Paragraph 12: Backcountry does not have sufficient information to admit or deny whether NSM currently owns U.S. Application No. 85/472,856 for HUCK FILES (the “‘856 application”) and therefore denies the same. Backcountry admits that the ‘856 application was filed on November 15, 2011, and that it covers “Cartoon strips” in International Class 16.

Paragraph 13: Backcountry admits that it owns U.S. Registration No. 3,836,095 for DEPARTMENT OF GOODS for services in International Class 35 (the “‘095 registration”) and that it was registered on August 17, 2010. Backcountry denies that paragraph 13 accurately describes the services covered by the ‘095 registration. The services covered by that registration are as follows:

Retail store services and computerized on-line retail store services featuring men's and women's clothing, headwear, footwear, outerwear, eyewear, heart rate monitors, altimeters and accessories, namely, watches and compasses, tote bags, ski equipment, namely, skis and ski boots, helmets, goggles, and poles, snowboard equipment, namely, snowboards and snowboard bindings, boots, helmets, and gloves, snowshoes, avalanche safety equipment, namely,

avalanche probes, beacons, and shovels, tents, sleeping bags, sleeping pads, kayaks, canoes, paddles, and related accessories, namely, spray skirts for kayaks, life jackets, dry bags, wall racks for hanging canoes and kayaks, and back rests, camping, hiking, and mountain climbing equipment, namely, climbing harnesses, climbing helmets, bags for storing and hauling climbing ropes, belay, and rappel devices, rock-climbing shoes, climbing ropes, carabineers, and chalk and chalk bags for rock-climbing, food and related accessories, namely, water purifiers, coolers, bags for food storage, pots, pans, bowls, and eating utensils, luggage and equipment car racks and related accessories, namely, adaptors and attachments for mounting the racks, watches, audio accessories, road and mountain bike equipment, namely, bikes and bike frames, forks, wheels, tires, helmets, repair and maintenance kits, suspensions, lights, bags and cases, books, videos, tools, lubricants, pumps, tubes, brakes, drive trains, headsets, shifters, saddles, seat posts, training equipment, locks, wheels, wheel sets, and watches, hydration packs, nutrition and body care products, bike clothing, namely, tights, jackets, pants, jerseys, shorts, bibs, shirts, gloves, hats, socks, warmers, and shoes, skateboards and accessories, namely, long boards, skateboards, and skateboarding pads, hats, shoes, DVDs, ramps, rails, backpacks, bearings, risers, decks, mini decks, trucks, bushings, and wheels, surf equipment, namely, surfboards, skim boards, hybrid surfboards, and surfboard racks, straps, pads, wetsuits, DVDs, wax, fins, leashes, traction pads, bags, and wetsuit bags, booties, rash guards, spring suits, and gloves; the dissemination of advertising for others via an on-line electronic communication network; and promoting the goods and services of others by preparing and placing advertisements on a web site accessed through a global computer network.

Paragraph 14: Backcountry admits that it owns U.S. Registration No. 3,891,836 for HUCKN ROLL for services in International Class 35 (the “‘836 registration”), and that it was registered on December 21, 2010. Backcountry denies that paragraph 14 accurately describes the services covered by the ‘836 registration. The services covered by that registration are as follows:

Retail store services, mail order services, and computerized on-line retail store services featuring bicycles, bicycle parts, namely, bicycle frames, wheels, rims, spokes, tires, inner tubes, mud guards, lights, reflectors, speedometers, mirrors, brakes, brake shoes, brake disks, handlebars, handlebar grips, handlebar grip tape, drive trains, gear wheels, gear shifts, chains, forks, fork covers, pedals, toe clips, kickstands, saddles, saddle covers, seats, baskets, water bottle cages, tags, bells, and horns, cycling accessories, namely, bicycle stands, covers, locks, pant protectors, air pumps, repair kits, maintenance kits, emergency kits, storage racks, and vehicle racks, and cycling wear, namely, cycling shirts, T-shirts, sweatshirts, jerseys, pullovers, pants, shorts, tights, body suits, uniforms, underwear, jackets, gloves, leg warmers, arm warmers,

socks, shoe covers, footwear, eyewear, and headwear; and promoting the goods and services of others by preparing and placing advertisements on a web site accessed through a global computer network.

Paragraph 15: The assertions in paragraph 15 consist of bare legal conclusions that require no response. To the extent they require any response, Backcountry denies each and every one of them in their entirety. Backcountry further denies that NSM is entitled to prevail on its Petition for Cancellation in any degree, that NSM has standing to seek cancellation of the '095 registration or the '836 registration, or that NSM is otherwise entitled to any relief whatsoever from the Board.

SECOND DEFENSE

The Petition fails to state a claim upon which relief may be granted.

THIRD DEFENSE

The Petition is barred by *res judicata* with respect to the '836 registration.

FOURTH DEFENSE

NSM is not entitled to any relief in this proceeding because it has acted in bad faith, has unclean hands, and/or has misused and abused its alleged marks and registrations.

FIFTH DEFENSE

The Petition is barred in whole or in part by waiver, estoppel, settlement, and/or release.

SIXTH DEFENSE

Backcountry reserves the right to assert additional defenses to NSM's claims, as this proceeding, the discovery process, and continuing investigation proceed.

WHEREFORE, Backcountry prays that the Board refuse NSM's Petition for Cancellation in its entirety and grant Backcountry such other and further relief as the Board deems proper.

Dated: January 3, 2012.

PARR BROWN GEE & LOVELESS, P.C.

s/Gregory M. Hess/
Attorneys for Backcountry.com, Inc.

185 S. State Street, Suite 800
Salt Lake City, Utah 84111
Telephone: (801) 532-7840

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2012, I cause the foregoing **ANSWER** to be served on the following party at the following address:

Zane Murdock
NSM Resources Corporation
516 Fowler Ave
Pelham, NY 10803

by causing to be mailed to such party a true and correct copy thereof, addressed to such party at the address set forth above, and sent U.S. Mail, first-class postage prepaid.

/s/Gregory M. Hess