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

Proceeding	92055471
Party	Defendant Radames Rosado and Zulma I. Crespo
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Date	06/06/2012
Attachments	Answer to Petition of Cancellation Smash Sports.pdf ( 3 pages )(223630 bytes )

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

GUILBERT TEX, INC.  
Plaintiff /Petitioner

Cancellation No. 92055471  
Registration No. 3064647

v.

RADAMES ROSADO AND ZULMA I.  
CRESPO  
Registrants / Defendants

PETITION FOR CANCELLATION

**ANSWER**

Comes Now Radamés Rosado and Zulma I. Crespo (Registrants / Defendants) by their attorneys, Osvaldo Toledo Martínez and Glorinés Rosario González, hereby answers the Petition of Cancellation filed by Guilbert Tex, Inc. as follows:

1. Registrants admit this statement.
2. Registrants do not have sufficient knowledge to admit or deny this statement.
3. Registrants do not have sufficient knowledge to admit or deny this statement.
4. Registrants deny this statement. Registrants clothing do has a label with Registrant's Mark affixed, they currently have an inventory. The designs on the website are artistic drawings that shows the clothing design, instead of pictures, registrants website is an on going process along with Social Media.
5. Registrants do not have sufficient knowledge to admit or deny this statement.
6. Registrants deny this statement.
7. Registrants deny this statement.
8. Registrants deny this statement.
9. Registrants deny this statement.

REGISTANTS' MARK IS TO CONTINUE TO BE REGISTERED

## **DEFENSES**

1. The marks between Registrants and Plaintiff are not interrelated, and therefore the likelihood of confusion is low. Plaintiff work on fashion clothing, Registrants work with sport clothing for the tennis players.
2. Plaintiff's mark does not show a high degree of distinctiveness.
3. Plaintiff's mark is a text mark and Registrants' mark contains marks with design elements, differentiating the two marks.
4. The existence of many Smash related marks shows that consumers do not confuse Smash related marks.
5. Registrants were granted the registration on March 7, 2006 and because the Petition of Cancellation was filed on April 13, 2012, Plaintiff was already on notice of the registered mark long before this proceeding was filed.
6. There is no confusion between Registrants' and Plaintiff's marks. The marks are not in violation of Section 2(d) of the Lanham Act, 15 U.S.C. 1052(d), and the Plaintiff was made aware of this mark long before it had been registered for six years.

WHEREFORE, Registrants ask that the registration Number 3064647 be allowed to continue to be registered.

**RESPECTFULLY SUBMITTED.**

This June 6, 2012.

**/S/ /Osvaldo Toledo Martínez/**  
Osvaldo Toledo Martínez, Esq.

**/S/ /Glorinés Rosario-González/**  
Glorinés Rosario-González, Esq.

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Counsels for Registrants / Defendants  
Radamés Rosado and Zulma I. Crespo

### **CERTIFICATE OF SERVICE**

This is to certify that on this June 6, 2012, a copy of the foregoing ANSWER was served via e-mail and first class mail, on the following:

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and

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**/S/ /Osvaldo Toledo Martínez/**  
Osvaldo Toledo Martínez, Esq.

**/S/ /Glorinés Rosario-González/**  
Glorinés Rosario-González, Esq.