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

Proceeding	92063808
Party	Defendant Tru Development
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Date	12/15/2018
Attachments	Abotbool Rebuttal Testimony.pdf(374716 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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)	
)	
Double Coin Holdings, Ltd.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92063808
)	U.S. Registration No. 4,805,521
)	Registration Date: September 1, 2015
Tru Development,)	Mark: ROAD WARRIOR
)	
Registrant.)	
)	
)	

REBUTTAL DECLARATION UNDER 37 CFR § 2.20 OF DAVID ABOTBOOL

I, David Abotbool, pursuant to 37 C.F.R. § 2.20 and TBMP §703.01(b), hereby declare the following:

1. That I am the President of Tru Development, the Registrant/Counter-Petitioner in this proceeding. I have personal knowledge of the facts stated herein, and if called as a witness, I could testify competently to them.
2. That I have been President of Tru Development since its inception in 2015 to the present.
3. Tru Development is the owner of U.S. Registration No. 4,805,521 for the Mark ROAD WARRIOR for “tires.”
4. ROAD WARRIOR tires are marked clearly and the words “road” and “warrior” are of equal font and appearance.

5. If, for example, a product sticker is garbled or partially visible, it is not something a customer will note my tires are primarily sold online and therefore the ROAD WARRIOR Mark exists on the product sales page and throughout the listing.
6. That the stickers are only one facet of display for the Mark. As shown in my prior Declaration, Exhibit 6, Our ROAD WARRIOR Mark appears on the sidewall of the tire and is clear, raised, prominent, and equally features the words “road” and “warrior” so our customers can easily identify and purchase a high quality tire from me or our distributors.
7. Further, no confusion exists between ROAD WARRIOR tires and WARRIOR ones. Not one instance of confusion has ever been brought to my attention nor has anyone even mentioned WARRIOR tires.
8. Prior to the institution of these proceedings, I was completely unaware of WARRIOR tires as they are not sold in my markets nor are they currently sold anywhere where my tires are sold.
9. I am not currently aware of any WARRIOR tires being offered for sale.
10. Any passenger car tires sold featuring ROAD WARRIOR were specially ordered and not available for sale generally. These special orders represent a tiny fraction of overall tire sales and are almost always sales accompanying sales of the usual kinds of off-roading and mud skid truck tires that I usually sell.
11. Further, I will also, very rarely, purchase and sell other branded tires through my company as a special order. These tires are sometimes co-branded with Road Warrior but also are directly sold with other branding.

12. Truck tires are a special market set off from traditional tire sales. My customers are specialized, knowledgeable, and demand high quality for strenuous use activities. My tires are highly sought after for this niche market and customers are very familiar with my brand.
13. The Petitioner's product is not comparable to mine.
14. I have not observed, heard about, or otherwise encountered any of Plaintiff's products in the United States the entire period that I have marketed, sold, and distributed ROAD WARRIOR tires.

I have been warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the application or submission or any registration resulting therefrom. I declare under penalty of perjury that the foregoing statements made of my own knowledge are true and correct, and all statements made on information and belief are believed to be true.

Executed on December 14, 2018

Tru Development '



By: DAVID ABOTBOOL
Its: President

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing Declaration was served upon Petitioner's counsel of record, via e-mail on this December 15, 2018, at the following address:

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