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

Proceeding	92064745
Party	Defendant Andria Kidd
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Trademark Registration No. 4,387,170
Mark: CALIFORNIA COWBOY
Filing Date: August 25, 2004
Registration Date: August 20, 2013

California Cowboy Apparel, Inc.)	Cancellation No. 92064745
)	
Petitioner)	
)	
v.)	
)	
Andria Kidd)	
)	
)	
Applicant)	

ANSWER TO PETITION TO CANCEL

Andria Kidd responds to the allegations set forth in the Petition to Cancel as follows:

Answering the preamble of the Petition to Cancel, Andria Kidd admits that she is an individual and the owner of Registration No. 4,387,170 for the mark CALIFORNIA COWBOY. Andria Kidd denies that California Cowboy Apparel, Inc. (“Petitioner”) is being or will be damaged by her continued registration of CALIFORNIA COWBOY. Andria Kidd denies knowledge or information sufficient to form a belief of the remaining allegations in the preamble.

1. Andria Kidd denies that Petitioner has any ownership rights in the mark CALIFORNIA COWBOY as related to the listed goods. Andria Kidd admits that Petitioner filed U.S. Trademark Application Serial No. 87/212,308, but denies that the

goods listed in this paragraph accurately reflect the goods in Petitioner's trademark application.

2. Andria Kidd denies knowledge or information sufficient to form a belief of the allegation in paragraph 2 of the Petition.

3. Andria Kidd denies the allegations of paragraph 3 of the Petition.

4. Andria Kidd admits the allegations of paragraph 4 of the Petition.

5. Andria Kidd denies the allegations of paragraph 5 of the Petition in that this paragraph does not accurately reflect what is provided under 37 C.F.R § 2.51(a) or TMEP § 807.12(a).

6. Andria Kidd denies the allegations of paragraph 6 of the Petition, but admits that she described her mark as follows: "The mark consists of Man with cowboy hat looking down circled with the words California Cowboy arched above."

7. Andria Kidd admits the allegations of paragraph 7 of the Petition.

8. Andria Kidd admits the allegations of paragraph 8 of the Petition, but this specimen was submitted in error based on Andria Kidd's filing of her CALIFORNIA COWGIRL trademark registration application around the same time. (See specimen in U.S. Trademark Application Serial No. 87/760,568, now Registration No. 4,387,030).

9. Andria Kidd denies the allegations of paragraph 9 of the Petition.

10. Andria Kidd admits the allegations of paragraph 10 of the Petition accurately describe the specimen filed with her original registration, but her registration has been corrected to include the CALIFORNIA COWBOY specimen.

11. Andria Kidd denies the allegations of paragraph 11 of the Petition.

12. Andria Kidd denies the allegations of paragraph 12 of the Petition.

13. Andria Kidd denies the allegations of paragraph 13 of the Petition.

14. Andria Kidd denies the allegations of paragraph 14 of the Petition.

15. Andria Kidd denies the allegations of paragraph 15 of the Petition.

AFFIRMATIVE DEFENSES

Andria Kidd asserts the following defenses in the Petition to Cancel. By alleging the defenses as set forth below, Andria Kidd does not assert or admit that it has the burden of proof and /or persuasion with respect to any of these defenses. Andria Kidd

reserves the right to assert additional affirmative defenses in the event that discovery or further analysis reveals presently known or unstated affirmative defenses.

First Affirmative Defense

The Petition fails, in whole or in part, to state a claim upon which relief may be granted.

Second Affirmative Defense

Petitioner lacks standing to seek the cancellation of Andria Kidd's CALIFORNIA COWBOY registration because it owns no rights in the mark and will not be damaged in any way by Andria Kidd's continued registration of her mark.

Third Affirmative Defense

On information and belief, Petitioner claims are barred by the doctrines of laches, estoppel, and/or acquiescence.


Fourth Affirmative Defense

On information and belief, Petitioner claims are barred by the doctrines of inequitable conduct and unclean hands.

WHEREFORE, Andria Kidd prays that the Petition to Cancel be dismissed, for an award of her costs and fees incurred herein, and for other relief the Board deems appropriate.

Respectfully submitted,
KOPPEL PATRICK HEYBL & PHILPOTT

December 14, 2016

By 
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