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

Proceeding	92065496
Party	Defendant AnyLogic North America, LLC
Correspondence Address	SEAN PLOEN PLOEN LAW FIRM PC 100 SOUTH FIFTH STREET, SUITE 1900 MINNEAPOLIS, MN 55402 UNITED STATES sploen@ploen.com, csutter@ploen.com
Submission	Answer
Filer's Name	Sean Ploen
Filer's e-mail	sploen@ploen.com, csutter@ploen.com, bwold@ploen.com
Signature	/Sean Ploen/
Date	04/10/2017
Attachments	Answer to NCH Petition for Cancellation.pdf(108199 bytes)

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

In the Matter of Trademark Registration No. 5,050,118

Trademark: AL (in Stylized Characters):



Registration Date: Sept. 27, 2016

NCH MARKETING SERVICES, INC.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92065496
)	
ANYLOGIC NORTH AMERICA, LLC,)	
)	
Registrant.)	
)	

REGISTRANT’S ANSWER TO THE PETITION FOR CANCELLATION

AnyLogic North America, LLC (“Registrant”), through its attorneys, hereby answers the Petition for Cancellation of NCH Marketing Services, Inc. (“Petitioner”), as follows in like-numbered paragraphs.

Registrant owns U.S. trademark registration no. 5,050,118 (the “Registration”), as referenced in the introductory paragraph of the petition to cancel (the “Petition for Cancellation”).

Petitioner’s remaining allegations in the introductory paragraph of the Petition for Cancellation consist of (i) statements about Petitioner about which Registrant lacks knowledge sufficient to form a belief as to their truth, (ii) legal arguments and conclusions to which no response is necessary, and (iii) prefatory content for which no response is required; to the extent any response is deemed necessary for those allegations, Petitioner denies same.

1. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 1 of the Petition for Cancellation concerning Petitioner and its own actions, and therefore denies the same.
2. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 2 of the Petition for Cancellation concerning Petitioner and its own actions, and therefore denies the same.
3. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 3 of the Petition for Cancellation concerning Petitioner and its own actions, and therefore denies the same.
4. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 4 of the Petition for Cancellation concerning Petitioner and its own actions, and therefore denies the same.
5. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 5 of the Petition for Cancellation concerning Petitioner and its own actions, and therefore denies the same.
6. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 6 of the Petition for Cancellation concerning Petitioner and its own actions, and therefore denies the same.
7. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 7 of the Petition for Cancellation concerning Petitioner and its own actions, and therefore denies the same; the remaining allegations contained in Paragraph 7 of the Petition for Cancellation consist of legal arguments or conclusions to which no response is required.

8. Paragraph 8 of the Petition for Cancellation contains no allegations to which Registrant must respond; the documents attached to the Petition for Cancellation speak for themselves.
9. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 9 of the Petition for Cancellation concerning Petitioner and its own actions, and therefore denies the same; the remaining allegations contained in Paragraph 9 of the Petition for Cancellation consist of legal arguments or conclusions to which no response is required.
10. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 10 of the Petition for Cancellation, and therefore denies the same.

Registrant's Confusingly Similar "N" [*sic*] Logo

11. Registrant admits Petitioner's allegations in Paragraph 11 of the Petition for Cancellation.
12. Registrant acknowledges filing an intent-to-use trademark application on January 5, 2014 with the U.S. PTO; that application matured into registration number 5,050,118 (for goods and services in Classes 9 and 42) on September 27, 2016, having received no objection from Petitioner or any other party during the publication period. Registrant denies Petitioner's allegation that the mark depicted in the Registration is a "highly similar stylized mark that appears to depict and/or convey the letter 'N'." Accordingly, Registrant objects to Petitioner's repeated references to the "'N' Logo" as being a misguided attempt by Petitioner to assign a false attribute to Registrant's trademark, which in fact consists of stylized versions of the letters "A" and "L" (which are in turn a reference to Registrant's "AnyLogic" name). Registrant further denies Petitioner's actual and implied allegations in Paragraph 12 of the Petition for Cancellation that assert similarities between Petitioner's "N" design mark and Registrant's "AL" design mark.

13. Registrant reasserts the objections and denials contained in Paragraph 12 above regarding Petitioner's labeling of the mark shown in the Registration as "Registrant's 'N' Logo."
Registrant acknowledges that January 31, 2014 is the listed date of first use and date of first use in commerce in the Registration; the document attached as Exhibit B to the Petition for Cancellation speaks for itself.
14. Registrant acknowledges that it owns and maintains the Web site that displayed or displays the Web page shown in Exhibit C of the Petition for Cancellation, the contents of which speak for themselves.
15. Registrant reasserts the objections and denials contained in Paragraph 12 above regarding Petitioner's description of the mark shown in the Registration as Registrant's "'N' Logo."
Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 15 of the Petition for Cancellation concerning Petitioner and its mark, and therefore denies the same.
16. Petitioner's allegation in Paragraph 16 consists of a legal argument or conclusion for which no response is required; to the extent a response is required, Registrant denies same.
17. Petitioner's allegation in Paragraph 17 consists of a legal argument or conclusion for which no response is required; to the extent a response is required, Registrant denies same.
18. Registrant denies the allegation contained in Paragraph 18 of the Petition for Cancellation.
19. Registrant reasserts the objections and denials contained in Paragraph 12 above regarding Petitioner's labeling of the mark shown in the Registration as "Registrant's 'N' Logo."
Registrant denies the allegations contained in Paragraph 19 of the Petition for Cancellation.
20. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 20 of the Petition for Cancellation concerning the nature of

Petitioner's own activities, and therefore denies the same; Registrant further notes that virtually any good or service offered for sale could be said to have some relation to "marketing, advertising, promotions, consumer markets, and consumer behavior."

21. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 21 of the Petition for Cancellation concerning the nature and scope of Petitioner's own activities, and therefore denies the same. Registrant also reasserts its statement immediately above concerning the broad and ambiguous nature of the terms "marketing, advertising, promotions, consumer markets, and consumer behavior."
22. Registrant lacks knowledge sufficient to form a belief as to the truth of Petitioner's allegations in Paragraph 22 of the Petition for Cancellation concerning the nature and scope of Petitioner's own activities and its customers, and therefore denies the same. Registrant also reasserts its statement above concerning the broad and ambiguous nature of the terms "marketing, advertising, promotions, consumer markets, and consumer behavior."
23. Registrant denies the allegations contained in Paragraph 23 of the Petition for Cancellation.
24. Registrant denies the allegations contained in Paragraph 24 of the Petition for Cancellation.
25. Registrant denies the allegations contained in Paragraph 25 of the Petition for Cancellation.
26. Registrant denies the allegations contained in Paragraph 26 of the Petition for Cancellation.

AFFIRMATIVE DEFENSES

Registrant states and hereby serves the following affirmative defenses:

1. Petitioner's claims against Registrant are barred by the doctrine of estoppel.
2. Petitioner's claims against Registrant are barred by the doctrine of laches.
3. Petitioner's claims against Registrant are barred by the doctrine of acquiescence.

4. Petitioner's claims against Registrant are barred by the doctrine of accord and satisfaction.

5. Petitioner's claims against Registrant are barred for failure to state a claim.

Registrant hereby reserves the right to assert additional affirmative defenses pending completion of discovery activities.

WHEREFORE, Registrant respectfully requests that this Petition for Cancellation be dismissed.

Respectfully submitted,

Date: April 10, 2017

/Sean Ploen/
Sean Ploen
PLOEN LAW FIRM, PC
100 South Fifth Street, Suite 1900
Minneapolis, MN 55402
Tel.: 651-894-6800
Fax: 651-894-6801
E-mail: sploen@ploen.com

Attorney for Registrant

Certificate of Service

I, the undersigned attorney, hereby certify that I caused to be served a true and correct copy of the foregoing document upon the following party in the manner indicated on this 10th day of April, 2017:

Kristen McCallion
Attorney for the Petitioner
FISH & RICHARDSON P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022
mccallion@fr.com

By:

- U.S. Postal Service, ordinary First Class mail
- U.S. Postal Service, certified or registered mail
- Return receipt requested
- Hand delivery
- Facsimile
- Electronic service via email
- Other (specify)

By: /Sean Ploen/
Sean Ploen
PLOEN LAW FIRM, PC
100 South Fifth Street, Suite 1900
Minneapolis, MN 55105
Tel.: 651-894-6800
Fax: 651-894-6801
E-mail: sploen@ploen.com