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

Proceeding	92065911
Party	Defendant NERO World, LLC
Correspondence Address	JOVANNA R BEARDEN BEARDEN LAW 104 S MAIN STREET BUTLER, MO 64730 UNITED STATES jovannabearden@gmail.com, email@bearden.law 816-787-1979
Submission	Answer
Filer's Name	Jovanna R Bearden
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Signature	/Jovanna R Bearden/
Date	09/02/2018
Attachments	Answer - Ford.pdf(105451 bytes)

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

In the matter of trademark Registration No. 4657988
For the mark NERO

Joseph Valenti, NERO International Holding)
Co., Inc., & NERO Live Adventure Games, LLC,)
Plaintiff,)
v.) Cancellation No. 92065911
NERO World, LLC,)
Defendant,)
)

ANSWER AND DEFENSES

Comes now Jovanna Bearden, attorney for Defendant NERO World, LLC, and Answers
Plaintiff's Amended Complaint as follows:

Answer

1. Defendant is unable to affirm or deny and on that basis denies the allegations of paragraph 1.
2. Deny.
3. Deny.
4. Admit.
5. Deny.
6. Deny.
7. Deny.

8. Deny.
9. Defendant admits that Nero International Holding Company's '409 Registration was canceled and denies the remaining allegations of paragraph 9.
10. Deny.
11. Deny.
12. Deny.
13. Deny.
14. Deny.
15. Deny.
16. Deny.
17. Admit.
18. Defendant Admits that Cease & Desist letters were sent to Plaintiff and Denies all other allegations of paragraph 18.
19. Deny.
20. Defendant incorporates all prior responses.
21. Deny.
22. Admit.
23. Deny.
24. Deny.
25. Deny.
26. Deny.
27. Deny.

28. Deny.

29. Deny.

30. Deny.

31. Defendant Admits that Nero International Holding Company's '409 Registration was canceled March 20, 2019, Defendant denies all other allegations of Paragraph

32. Deny.

33. Defendant is unable to admit or deny the allegations of Paragraph 33 and on that basis Denies the same.

34. Defendant admits that William J. Bearden d/b/a NERO Central ("Bearden") entered into a License Agreement on April 1, 2006, allowing Bearden to use the NERO trademark, likeness, and goodwill; Defendant denies that NIHC was a party to the License Agreement.

35. Defendant admits the Agreement states "Nero is the registered trademark of NERO International Holding Co., Inc., USPTO Trademark Registration Number 2,270,409", Defendant denies the remaining allegations of paragraph 35.

36. Deny.

37. Defendant denies that the trademark application was for goods, and admits the remaining allegations of paragraph 37.

38. Admit.

39. Defendant admits that a communication was sent;

a. Defendant denies the allegations of paragraph 39a;

b. Defendant denies the allegations of paragraph 39b;

- c. Defendant denies the allegations of paragraph 39c;
- d. Defendant denies the allegations of paragraph 39d;
- e. Defendant denies the allegations of paragraph 39e;

40. Admit.

41. Deny.

42. Admit.

43. Admit.

44. Deny.

45. Deny.

46. Deny.

47. Deny.

48. Defendant incorporates its above responses herein.

49. Deny.

50. Deny.

51. Deny.

52. Deny.

53. Deny.

54. Deny.

55. Deny.

56. Deny.

57. Deny.

58. Deny.

59. Deny.

60. Defendant is unable to affirm or deny and on that basis denies the allegations of paragraph 60.

61. Deny.

62. Deny.

63. Deny.

64. Deny.

65. Deny.

66. Deny.

67. Deny.

68. Deny.

69. Deny.

70. Deny.

71. Deny.

72. Deny.

73. Deny.

74. Defendant incorporates its above responses herein.

75. Deny.

76. Deny.

77. Deny.

78. Deny.

a. Defendant denies the allegations of 78a.

- b. Defendant denies the allegations of 78b.
- c. Defendant denies the allegations of 78c.
- d. Defendant denies the allegations of 78d.

79. Deny.

- a. Defendant denies the allegations of 79a.
- b. Defendant denies the allegations of 79b.
- c. Defendant denies the allegations of 79c.
- d. Defendant denies the allegations of 79d.

80. Deny.

- a. Defendant denies the allegations of 80a.
- b. Defendant denies the allegations of 80b.
- c. Defendant denies the allegations of 80c.
- d. Defendant denies the allegations of 80d.

81. Deny.

82. Deny.

83. Deny.

84. Deny.

85. Deny.

86. Deny.

87. Deny.

88. Deny.

89. Deny.

90. Deny.

91. Deny.

92. Defendant incorporates its above responses herein.

93. Deny.

94. Admit.

95. Admit.

96. Deny.

97. Admit.

98. Admit.

99. Admit.

100. Deny.

101. Deny.

102. Deny.

103. Deny.

104. Deny.

105. Deny.

106. Deny.

107. Deny.

108. Deny.

109. Deny.

110. Deny.

111. Deny.

112. Deny.

113. Defendant incorporates its above responses herein.

114. Deny.

115. Deny.

116. Deny.

117. Defendant is unable to admit or deny, and on that basis denies the allegations
of paragraph 117.

118. Admit.

119. Deny.

120. Admit.

121. Admit.

122. Deny.

123. Deny.

124. Deny.

125. Deny.

126. Deny.

127. Deny.

128. Deny.

129. Deny.

130. Deny.

131. Deny.

132. Deny.

133. Deny.

134. Deny.

135. Deny.

Defenses

First its Defenses Nero World, LLC states as follows:

1. For its first defense, Defendant asserts that Nero Live Adventure Games, LLC lacks standing to pursue this action. Defendant's basis this defense on the fact that Nero Live Adventure Games, LLC, is not a registered LLC in any state.
2. For its second defense, Defendant asserts that Nero International Holding Co, Inc., lacks standing to pursue this action. Defendant's basis for this defense is that Nero International Holding Co., Inc. was not in business or functioning during the periods of time in question in this litigation.
3. For its third defense, Defendant asserts that Joseph Valenti lacks standing to pursue this action. Defendant's basis for this defense is that Mr. Valenti lacks privity with any business which has standing to pursue this action, and he does not have standing individually to bring this action.
4. For its fourth defense, Defendant asserts that Joseph Valenti, Nero Live Adventure Games, LLC and Nero International Holding Co., Inc., should all be barred from any recovery as a result of the doctrines of bad faith and unclean hands. Defendant's basis for this defense is that Plaintiffs, individually and/or in concert, improperly placed a registration mark (®), claimed registrations to which they had no rights, referred to non-existent registrations in connection with the Nero mark with the intent of deceiving

the purchasing public or others in the trade into believing that the mark was registered, and other acts.

5. For its fifth defense, Defendant asserts that portions of this action are barred because the “trademark” NERO LARP are generic, non-distinctive, ornamental, and/or merely descriptive.
6. For its sixth defense, Defendant asserts that any claim which any Plaintiff may have had on any trademarks at issue was abandoned prior to use and registration of Defendant’s trademark, and that Defendant’s use and registration of the trademark was prior to any renewed legitimate use of the mark by Plaintiffs.
7. For its seventh defense, Defendant asserts that Plaintiff NIHC’s recent attempt to claim the NERO trademark with the USPTO was fraudulent, and should have been denied on those grounds. NIHC and other Plaintiffs were therefore not harmed by the USPTO’s refusal of NIHC’s recent application.
8. For its eighth defense, Defendant asserts that no Plaintiff has any enforceable trademark right in any of the disputed marks.
9. Additional defenses may be uncovered during the discovery process, at which time Defendant will timely seek leave to amend and claim the same.

Prayer for Relief

WHEREFORE, Defendant denies that Plaintiffs are entitled to any relief and prays for entry of judgment against Plaintiff, dismissing with prejudice and on the merits all of Plaintiffs' claims and awarding Defendant such other relief as the Board deems just and proper.

Dated: September 2, 2018

By: / Jovanna R. Bearden /
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Attorney for Defendant

CERTIFICATE OF SERVICE

I, Jovanna R. Bearden, certify that on this 2nd day of September, 2018, a true and correct copy of the foregoing document was filed with the Trademark Trial and Appeal Board via the Electronic System for Trademark Trials and Appeals and sent by email to Counsel for Plaintiff, Phillip Thomas Horton at NEROLitigation@gmail.com .

Dated: September 2, 2018

By: / Jovanna R. Bearden /
Jovanna R. Bearden