

ESTTA Tracking number: **ESTTA910604**

Filing date: **07/19/2018**

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

Proceeding	92068024
Party	Defendant Loup Inc.
Correspondence Address	MARCUS D PETERSON COOLEY LLP 1299 PENNSYLVANIA AVE NW, STE 700 WASHINGTON, DC 20004 UNITED STATES Email: mpeterson@cooley.com, bghajar@cooley.com, jalvarez@cooley.com, trademarks@cooley.com
Submission	Answer
Filer's Name	Eunice Yu
Filer's email	eyu@cooley.com, trademarks@cooley.com, mpeterson@cooley.com, bghajar@cooley.com
Signature	/Eunice Yu/
Date	07/19/2018
Attachments	Loup Answer to Petition for Cancellation.pdf(131460 bytes )

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

In the Matter of Registration No. 4,749,178  
For the Trademark LOUP  
Registered on June 2, 2015

Union Pacific Railroad Company,	)	
	)	
Opposer,	)	
	)	Cancellation No. 92068024
v.	)	
	)	
Loup Inc.,	)	
	)	
Registrant.	)	
<hr style="border: 0.5px solid black;"/>		

**ANSWER TO PETITION FOR CANCELLATION AND AFFIRMATIVE DEFENSES**

Registrant Loup Inc. (“Loup”) hereby submits its answer to the allegations raised in the Petitioner’s Petition for Cancellation as follows:

1. Loup admits that Petitioner has filed applications to register the mark LOUP (in standard characters and with a design) in connection with transportation services. Loup refers to the USPTO records for the specifics of Petitioner’s various trademark applications.
2. Loup admits that Petitioner’s applications to register the mark LOUP are subject to refusals issued by the USPTO on grounds of likelihood of confusion with Loup’s trademark.
3. Loup admits that it owns Registration No. 4749178 for the mark LOUP, in connection with “Computer software for coordinating transportation services, namely, software for the scheduling and dispatch of motorized vehicles; software for electronic message alerts coordinating transportation providers with individuals and groups needing transportation” in International Class 9 and “Transportation of passengers by motorized vehicle; Transportation of

passengers by vehicle provided through a network of transportation providers via the Internet and global computer networks” in International Class 39.

4. Loup denies the allegations in Paragraph 4.

5. Paragraph 5 contains legal argument as to whether the LOUP trademark has been used in commerce, and such legal argument does not require a response. To the extent Paragraph 5 requires a response, Loup denies that it has not used the LOUP trademark in connection with offering, promoting, and/or marketing transportation goods and/or services, including through outward facing materials.

6. Loup denies the allegations in Paragraph 6.

7. Loup admits that it amended its Articles of Incorporation in 2018 to change its corporate name to “SnapShip Inc.” Loup denies that the corporate name change has any bearing on the current Petition.

8. Loup denies the implication that Petitioner has any right to register the LOUP trademark, and thus denies that Petitioner would be “damaged” by continued registration of the LOUP trademark by Loup.

### **AFFIRMATIVE DEFENSES**

Pursuant to Rule 8(c) of the Federal Rules of Civil Procedure and TBMP §311.02(b), Loup further pleads the following separate and additional defenses. Loup reserves the right to assert such additional affirmative defenses as discovery progresses.

### **FIRST AFFIRMATIVE DEFENSE**

#### **(Failure to State a Claim Upon Which Relief May be Granted)**

The Petition fails to state a claim upon which relief may be granted and fails to allege with specificity the bases of Petitioner’s claims that Loup’s mark has been abandoned.

Whereas, Loup prays that the Petition to Cancel be dismissed in its entirety.

Respectfully submitted,

COOLEY LLP

Dated: July 19, 2018

By: /s/ Marcus D. Peterson  
Bobby A. Ghajar  
Marcus D. Peterson  
1299 Pennsylvania Avenue NW, Suite 700  
Washington, DC 20004

*Attorneys for Registrant,  
Loup, Inc.*

CERTIFICATE OF ELECTRONIC TRANSMISSION

DATE OF DEPOSIT

:

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated above.

/Eunice Yu/

EUNICE YU

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **ANSWER TO PETITION FOR CANCELLATION AND AFFIRMATIVE DEFENSES** regarding *Union Pacific Railroad Company v. Loup Inc.* was served on Petitioner Union Pacific Railroad Company's counsel of record in portable document format (PDF) on the date set forth below via email to:

Patrick C Stephenson  
[patrick.stephenson@kutakrock.com](mailto:patrick.stephenson@kutakrock.com)  
Kutak Rock LLP  
1650 Farnam Street, The Omaha Building  
Omaha, NE 68102-2186

Dated: July 19, 2018

Cooley LLP

/Eunice Yu/  
Eunice Yu