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

Proceeding	92070299
Party	Defendant George Luna Alvarez
Correspondence Address	GEORGE LUNA ALVAREZ 4201 SW 11TH STREET Coral Gables, FL 33134 UNITED STATES pb90291@gmail.com no phone number provided
Submission	Answer
Filer's Name	Christopher M. Verdini
Filer's email	USPTO.LitigationDocket@klgates.com, christopher.verdini@klgates.com
Signature	/Christopher M. Verdini/
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Attachments	Answer to TRSYucatanHotel Cancellation.pdf(15512 bytes)

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

FIESTA HOTELS)	
& RESORTS, S.L.)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92/070,299
)	
GEORGE ALVAREZ,)	
)	
Registrant.)	
)	

REGISTRANT’S ANSWER TO PETITION TO CANCEL

Registrant, George Alvarez (“Registrant” or “Alvarez”), by his undersigned counsel, hereby answers the allegations set forth in the Petition to Cancel (the “Cancellation”) filed by Petitioner Fiesta Hotels & Resorts, S.L. (“Petitioner”) as follows:

1. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Cancellation and, for that reason, denies them.
2. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Cancellation and, for that reason, denies them.
3. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Cancellation and, for that reason, denies them.
4. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Cancellation and, for that reason, denies them.

5. Registrant denies that the allegations contained in Paragraph 5 of the Cancellation are relevant to the proceeding. Registrant further responds that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Cancellation and, for that reason, denies them.

6. Registrant admits that the online records of the United States Patent and Trademark Office show that Petitioner is listed as the owner of U.S. Reg. No. 3882603. Registrant denies the remaining allegations of Paragraph 6 of the Cancellation as they are an incomplete summary of various written documents, namely the full prosecution history for U.S. Reg. No. 3882603. Registrant respectfully refers the Board to the complete file history of the referenced registration for the full content thereof.

7. Admitted.

8. Registrant admits that Vacation Store of Miami is a travel agency located in the United States. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 8 of the Cancellation and, for that reason, denies them.

9. Registrant denies that the allegations contained in Paragraph 9 of the Cancellation are relevant to the proceeding, but admits that Vacation Tours, Inc. is a Florida corporation with an address of 4201 SW 11th Street, Coral Gables, Florida 33134 and that Alexandra Alvarez is a director of Vacation Tours, Inc.

10. Registrant denies that the allegations contained in Paragraph 10 of the Cancellation are relevant to the proceeding, but admits that he is Vice President of Vacation Tours, Inc.

11. Registrant admits that Vacation Store entered into contracts with Dominican Entertainment SARL related to the TRS Yucatan and TRS Turquesa hotels. Registrant further responds that Vacation Store has entered into other contracts to sell rooms at Petitioner's hotels. Registrant is without knowledge and information sufficient to form a belief as to Petitioner's allegations regarding its alleged relationship with Dominican Entertainment SARL and, for that reason, denies them. Registrant denies the remaining allegations of Paragraph 11 of the Cancellation as they are an incomplete summary of various written documents, namely the alleged "Hotel Contracts" attached to the Cancellation as Exhibit B. Registrant further responds that the attached Exhibit B which purports to be the "Hotel Contracts," only contains one page of what appears to be a six-page document and the contracts do not contain any signatures.

12. Registrant denies the allegations of Paragraph 12 of the Cancellation as they are an incomplete summary of various written documents, namely the alleged "Hotel Contracts" attached to the Cancellation as Exhibit B. Registrant further responds that Paragraph 12 of the Cancellation only refers to one of many the terms of the alleged "Hotel Contracts" and also that the attached Exhibit B which purports to be the "Hotel Contracts," only contains one page of what appears to be a six-page document and the contracts do not contain any signatures.

- 13. Denied.
- 14. Admitted.
- 15. Admitted.
- 16. Denied.
- 17. Denied.
- 18. Denied.
- 19. Denied.

20. Denied.

21. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Cancellation and, for that reason, denies them.

22. Denied.

23. Denied.

24. Denied.

25. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Cancellation and, for that reason, denies them.

26. Denied.

27. Denied.

28. Denied.

AFFIRMATIVE DEFENSES

In further answer to the Cancellation, Registrant asserts that:

1. Petitioner has failed to state a claim, in whole or in part, upon which relief may be granted.

2. Petitioner has failed to allege sufficient facts to establish priority of use in the United States of TRS.

3. Petitioner has failed to allege facts sufficient to establish a likelihood of confusion, mistake or deception between any trademark rights allegedly owned by Petitioner and Registrant's mark.

4. There is no likelihood of confusion, mistake, or deception between any trademark rights allegedly owned by Petitioner and Registrant's mark.

5. Petitioner has failed to allege facts sufficient to establish that use and registration of Registrant's mark would falsely suggest a connection with Petitioner or any marks allegedly owned by Petitioner.

6. Use and registration of Registrant's mark would not falsely suggest a connection between Registrant and Petitioner or any marks allegedly owned by Petitioner.

7. Petitioner has failed to alleged sufficient facts to establish fraud on the Trademark Office.

8. Registrant has not committed fraud on the Trademark Office.

9. Petitioner is estopped from seeking cancellation based upon its actions.

10. Petitioner Cancellation should be denied on the basis of acquiescence.

11. Petitioner Cancellation should be denied due to laches.

12. Petitioner Cancellation should be denied on the basis of waiver.

13. Petitioner will not be damaged in any way by the registration of Registrant's mark.

WHEREFORE, Registrant respectfully requests that the Cancellation be dismissed in its entirety and that Registrant be granted such additional relief as the Trademark Trial and Appeal Board may find to be warranted under the circumstances.

Date: February 11, 2019

Respectfully submitted,

/s/ Christopher M. Verdini
Christopher M. Verdini, Esquire
K&L GATES LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
(412) 355-6500 (Telephone)
(412) 355-6501 (Facsimile)

Attorneys for Registrant
George Alvarez

CERTIFICATE OF SERVICE

The undersigned herby certifies that a true and correct copy of the foregoing was served this 11th day of February 2019, via first class mail, postage prepaid, upon the following counsel of record:

Michael J. Brown
Michael J. Brown Law Office LLC
354 Eisenhower Parkway
Plaza 1, 2nd Floor, Suite 2025
Livingston, NJ 07039
michael@mjbrownlaw.com

/s/ Christopher M. Verdini