

ESTTA Tracking number: **ESTTA1001409**

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

Proceeding	92071907
Party	Defendant Alfwear Inc.
Correspondence Address	ALFWEAR INC. 4884 SOUTH 300 WEST MURRAY, UT 84107 UNITED STATES no email provided no phone number provided
Submission	Answer
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Signature	/s S. Brandon Owen/
Date	09/12/2019
Attachments	Answer to Petition for Cancellation.pdf(25563 bytes )

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

In the Matter of Trademark Registration No. 4,576,371  
Mark: KÜHL  
Registration Date: July 29, 2014  
Cancellation No. 92071907

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MAST-JAEGERMEISTER US, INC.,  Petitioner,	
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v.

ALFWEAR, INC.,  Respondent.	
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**ANSWER TO PETITION FOR CANCELLATION**

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Respondent Alfwear, Inc., by and through its undersigned counsel, answers Petitioner Mast-Jaegermeister US, Inc.'s Petition for Cancellation as follows:

1. With respect to the allegations of paragraph 1, Respondent admits that it owns Registration No. 4576371 for the mark KÜHL shown in the registration. As to the remaining allegations, Respondent responds that Registration No. 4576371 speaks for itself.

2. With respect to the allegations of paragraph 2, Respondent admits that it filed Application Serial No. 85615248 to register the mark KÜHL. As to the remaining allegations, Respondent responds that Application Serial No. 85615248 and its associated prosecution file speak for themselves.

3. Respondent denies the allegations of paragraph 3.

4. Respondent denies the allegations of paragraph 4.
5. Respondent denies the allegations of paragraph 5.
6. With respect the allegations of paragraph 6, the specimen submitted in Application Serial No. 85615248 speaks for itself with respect to its contents. Respondent otherwise denies the allegations of paragraph 6.
7. Respondent denies the allegations of paragraph 7.
8. Respondent denies the allegations of paragraph 8.
9. Respondent denies the allegations of paragraph 9.
10. Respondent denies the allegations of paragraph 10.
11. Respondent admits that the German word “kühl” means “cool” in English. As to the remaining allegations of paragraph 11, Respondent lacks sufficient information to form a belief as to their truth or falsity and on that ground denies them.
12. Respondent lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 12 and on that ground denies them.
13. Respondent lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 13 and on that ground denies them.
14. Respondent denies the allegations of paragraph 14.
15. Respondent denies the allegations of paragraph 15.
16. Respondent denies the allegations of paragraph 16.
17. Respondent admits that it filed a complaint for trademark infringement and dilution against Petitioner. The complaint speaks for itself as to its contents. Respondent specifically denies that Petitioner’s use of the term KÜHL is descriptive. Respondent lacks

sufficient information to form a belief as to the truth or falsity of the famousness of Petitioner's Jägermeister liqueur.

18. As to the allegations of paragraph 18, the Notice of Suit speaks for itself.

19. Respondent lacks sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 19 and on that ground denies them.

Respondent further denies that Petitioner is entitled to any relief.

Respondent denies each and every allegation of the Petition not specifically and expressly admitted.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE** **(Failure to State Claim)**

1. The Petition fails to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE** **(Waiver, Estoppel, Consent and Ratification)**

2. On information and belief, the Petition fails, in whole or in part, under the doctrines of waiver, estoppel, consent, and ratification.

#### **THIRD AFFIRMATIVE DEFENSE** **(Acquiescence)**

3. On information and belief, the Petition fails, in whole or in part, under the doctrine of acquiescence.

#### **OTHER AFFIRMATIVE DEFENSES RESERVED**

4. Respondent reserves the right to assert any additional affirmative defenses as may be warranted by discovery in this matter.

5. Respondent reserves the right to assert additional claims as discovery progresses.

**REQUEST FOR RELIEF**

WHEREFORE, Respondent requests that the Trademark Trial and Appeal Board dismiss  
Petitioner's Petition.

DATED this 12th day of September, 2019.

/s S. Brandon Owen /

S. Brandon Owen

Adam K. Richards

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of September, 2019, I served a true and correct copy of the foregoing **ANSWER TO PETITION FOR CANCELLATION** via email on the following:

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*Attorneys for Petitioner Mast-Jägermeister US, Inc.*

/s/ Kelly D. Pickering