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

Proceeding	92072185
Party	Defendant Skins International Trading AG
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the Matter of U.S. Trademark Registration Nos. 3499197, 4588981, and 5061834: S SKINS ,
U.S. Trademark Registration No. 5230136: S SKINS PURESPORT ; and U.S. Trademark Registration Nos.
5563146 and 5736426: SKINS *

SKINS IP LIMITED,
Petitioner,

v.

SYMPHONY HOLDINGS LIMITED
*(per assignment from Skins International
Trading AG),*

Respondent.

Cancellation No. 92072185 (parent case)
Cancellation No. 92072243

ANSWER TO CONSOLIDATED PETITIONS FOR CANCELLATION

Respondent, Symphony Holdings Limited (*per assignment from Skins International Trading AG*) (“Respondent”), answers Petitioner, Skins IP Limited’s (“Petitioner”), Petitions for Cancellation as set forth below.

**I. PETITION FOR CANCELLATION AGAINST
TRADEMARK REGISTRATION NOS. 3499197, 4588981, 5061834, AND 5230136**

Petitioner, SKINS IP LIMITED, a United Kingdom private limited company (“Petitioner”), believes that it is and will continue to be damaged by United States Registration Nos. 3499197, 4588981, 5061834, and 5230136 and hereby petitions for cancellation thereof, as follows:

ANSWER: Respondent is without knowledge sufficient to form a belief as to the truth of the allegations about Petitioner contained in the introductory paragraph of its Petitions for Cancellation, and accordingly denies these allegations. To the extent the introductory paragraph contains any allegations, it is denied.

1. Petitioner is a United Kingdom private limited company.

ANSWER: Respondent is without knowledge sufficient to form a belief as to the truth of the allegations about Petitioner in Paragraph 1.

2. *On information and belief, registrant is a Swiss corporation (“Respondent”) with a mailing address at Sennweidstrasse 43, Steinhausen, Switzerland 6312.*

ANSWER: Respondent admits that the original registrant was a Swiss corporation with a mailing address at Sennweidstrasse 43, Steinhausen, Switzerland 6312. The relevant trademarks have been assigned to Symphony Holdings Limited, a company incorporated in Bermuda, having a mailing address at 10th Floor, Island Place Tower, 510 King’s Road, North Point, Hong Kong.

3. *On September 12, 2006, Respondent filed U.S. Trademark Application Serial No. 78/972753 for the mark S SKINS (in design) for registration in connection with the following goods and services, under Section 44E of the Trademark Act:*

IC 010: Surgical and medical garments for supporting specific muscles or groups of muscles, for prevention of muscle injury; for therapeutic purposes; for the control of vascular and/or circulatory ailments; for stabilizing injured areas of the body and for prevention of muscle injury, namely, compression stockings, compression long and short pants, compression shorts including short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, compression underwear, therapeutic compression garments for supporting specific muscles or groups of muscles, therapeutic compression garments for prevention of muscle injury; therapeutic compression garments; elastic stockings for medical or therapeutic purposes; elastic supports, namely, elastic supports for stabilizing injured areas of the body and for prevention of muscle injury;

IC 025: Compression garments in the nature of apparel, namely, compression stockings, compression long and short pants, compression shorts including short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, and compression underwear;

IC 028: Pads for men, women, children and babies in the nature of elbow pads for athletic use, shin pads for athletic use, knee pads for athletic use, shoulder pads for athletic use, hip pads for athletic use, thigh pads for athletic use, rib protectors for athletic use, padded hand and finger protectors for sport or athletic activity, padded jackets for athletic use; sports guards, namely, shin pads, knee pads, and elbow pads

for athletic use, and chest protector pads for athletic use; and

IC 035: Retail store services, wholesale store services, mail order services, on-line ordering services, and distributorships, all featuring: surgical and medical garments for supporting specific muscles or groups of muscles, for prevention of muscle injury; for therapeutic purposes; for the control of vascular and/or circulatory ailments; for stabilizing injured areas of the body and for prevention of muscle injury, namely, compression stockings, compression long and short pants, compression shorts including short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, compression underwear, therapeutic compression garments for supporting specific muscles or groups of muscles, therapeutic compression garments for prevention of muscle injury; therapeutic compression garments; elastic stockings for medical or therapeutic purposes; elastic supports, namely, elastic supports for stabilizing injured areas of the body and for prevention of muscle injury; compression garments in the nature of apparel, namely, compression stockings, compression long and short pants, compression shorts including short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, and compression underwear; pads for men, women, children and babies in the nature of elbow pads for athletic use, shin pads for athletic use, knee pads for athletic use, shoulder pads for athletic use, hip pads for athletic use, thigh pads for athletic use, rib protectors for athletic use, padded hand and finger protectors for sport or athletic activity, padded jackets for athletic use; sports guards, namely, shin pads, knee pads, and elbow pads for athletic use, and chest protector pads for athletic use.

On or about September 9, 2008, U.S. Registration No. 3,499,197 issued in the name of Respondent. On or about September 4, 2014, Respondent filed a “Combined Declaration of Use and Incontestability under Sections 8 & 15” of the Trademark Act attesting to continued use of the trademark in connection with the goods/services in International Classes 10, 25, and 35 and deleting the entire listing of goods in International Class 28. On or about September 10, 2018, Respondent filed a “Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Sections 8 & 9” of the Trademark Act attesting to continued use of the trademark in connection with the goods/services in International Classes 10 and 25 and deleting the entire listing of goods in International Class 35.

ANSWER: In answer to Paragraph 3, Respondent asserts that the actual U.S. Trademark registrations referenced in Paragraph 3 are the best evidence of their content. Therefore, Respondent references said U.S. Trademark registrations or applications and denies any allegations inconsistent therewith.

4. *On December 28, 2009, Respondent filed U.S. Trademark Application Serial No. 77/901530 for the mark S SKINS (in design) for registration in connection with the following goods, under Section 1B of the Trademark Act:*

IC 018: Bags of leather and imitation leather, namely, athletic bags, backpacks, knapsacks, satchels, shoulder bags, sports bags, including all-purpose sports bags, duffel bags, gym bags, holdalls; and travelling bags; and

IC 028: Bags specially adapted for sports balls, namely, lacrosse balls, soccer balls, and footballs; bags specially adapted for football, lacrosse and cricket sports gear bags, and sports bags specially adapted for cricket equipment.

On or about August 19, 2014, U.S. Registration No. 4,588,981 issued in the name of Respondent.

ANSWER: In answer to Paragraph 4, Respondent asserts that the actual U.S. Trademark registrations referenced in Paragraph 4 are the best evidence of their content. Therefore, Respondent references said U.S. Trademark registrations or applications and denies any allegations inconsistent therewith.

5. *On January 30, 2015, Respondent filed U.S. Trademark Application Serial No. 86/519020 for the mark S SKINS (in design) for registration in connection with the following goods, under Section 44E of the Trademark Act:*

IC 009: Apparatus for data collection; data collection instruments; connecting devices for data collection, namely, cable connectors; electronic temperature monitors, other than for medical use; electronic carbon dioxide monitors other than for medical purposes; monitors, namely, liquid crystal display monitors; monitors being computer hardware; computer programs for operating computer monitors; video monitors for recording events; interfaces between application programs and firmware on real-time computers; real-time data processing apparatus; electric sensors for real time data input apparatus; electric sensors for real time data output apparatus; downloadable computer software applications for use in database management and use in electronic storage of data; downloadable software applications for use in database management, use in electronic storage of data; devices for measuring temperature, weight and heart rate; measuring apparatus for measuring speed; computer programs for data collection; computer software for data collection; wireless apparatus, namely, wireless communication apparatus, amplifier for wireless communications, wireless adapters for computers, wireless computer peripherals; mobile data apparatus, namely, mobile data receivers, mobile data terminal; analysis apparatus other than for medical use for analysis of temperature, weight and heart rate; computer programs for scientific data analysis; downloadable electronic publications, namely, books, magazines, journals,

newspapers, articles, and downloadable databases in the field of electronic publications; apparatus for processing, reading and receiving data; apparatus for the conversion of information; apparatus for transmitting data, sound and images; apparatus for recording, transmission or reproduction of sound or images; data processing equipment; measuring apparatus and instruments for measuring temperature, weight, and heart rate; speed measuring apparatus; distance measuring apparatus; digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring information regarding sport, exercise and performance in sport.

On or about October 18, 2016, U.S. Registration No. 5,061,834 issued in the name of Respondent.

ANSWER: In answer to Paragraph 5, Respondent asserts that the actual U.S. Trademark registrations referenced in Paragraph 5 are the best evidence of their content. Therefore, Respondent references said U.S. Trademark registrations or applications and denies any allegations inconsistent therewith.

6. *On August 21, 2014, Respondent filed U.S. Trademark Application Serial No. 86/373769 for the mark S SKINS Pure Sport (in design) for registration in connection with the following goods and services, under Section 44E of the Trademark Act:*

IC 010: Compression stockings, compression long and short pants, compression shorts, namely, short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, compression underwear all for use as surgical and medical garments for supporting specific muscles or groups of muscles, for prevention of muscle injury, for therapeutic purposes, for the control of vascular and circulatory ailments and for stabilizing injured areas of the body and for prevention of muscle injury; therapeutic compression garments for supporting specific muscles or groups of muscles, namely, compression stockings, compression long and short pants, compression shorts, short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, compression underwear; therapeutic compression garments for prevention of muscle injury; therapeutic compression garments, namely, compression stockings, compression long and short pants, compression shorts, short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and

short sleeved tops, compression bibs, compression underwear; elastic stockings for medical and therapeutic purposes; elastic supports, namely, elastic supports for stabilizing injured areas of the body and for prevention of muscle injury; supports for arms, legs, torso, buttocks, thighs, knees, hands, feet, shoulders, stomach, shins, calves, neck, back, wrists, forearms, waist for medical use;

IC 018: Bags, namely, shopping bags of leather and imitation leather; athletic bags; beach bags; backpacks; handbags; knapsacks; luggage; purses; wallets; key cases; satchels; shoulder bags; sports bags, namely, all-purpose sports bags; lacrosse ball bags; ski boot bags; bags specially designed to carry cricket equipment; duffle bags; draw-string bags; trolley bags specially adapted for football equipment; bags specially adapted for carrying sports equipment gear; gym bags; holdalls; travelling bags; umbrella;

IC 035: Development of advertising marketing campaign to promote anti- corruption, anti-doping and anti-drugs in sport, sportsmanship and the spirit of competition for others; promotional sponsorship services, namely, sponsorship of sporting, education and lifestyle events; advertising and marketing services; promotional services for sporting, education and lifestyle events for others; retail store services, wholesale ordering services, mail order services, online retail store services, and wholesale distributorships, all featuring surgical and medical garments for supporting specific muscles or groups of muscles, for prevention of muscle injury, for therapeutic purposes, for the control of vascular and/or circulatory ailments, for stabilizing injured areas of the body and for prevention of muscle injury, namely, compression stockings, compression long and short pants, compression shorts including short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, compression underwear, therapeutic compression garments for supporting specific muscles or groups of muscles, therapeutic compression garments for prevention of muscle injury, therapeutic compression garments, elastic stockings for medical or therapeutic purposes, elastic supports, namely, elastic supports for stabilizing injured areas of the body and for prevention of muscle injury, bags, including bags of leather and imitation leather, athletic bags, beach bags, backpacks, handbags, hydration packs, knapsacks, luggage, purses, wallets, key cases, satchels, shoulder bags, sports bags including all-purpose sports bags; ball bags, bottle bags, boot bags, cricket bags, duffle bags, draw-string bags, football bags, gear bags, gym bags, holdalls, kit bags and team bags, travelling bags, umbrellas; and

IC 041: Education services, namely, conducting classes and seminars to educate consumers on the subjects of anti-corruption, anti-doping and anti-drugs in sport, the value of sportsmanship and the spirit of competition; organizing community sporting and cultural events; entertainment, namely, sporting events, providing information, namely, online information in the field of sports; entertainment, namely, sporting and cultural activities information; organisation of sporting events; providing information

in the field of sporting events; on-line journals, namely, blogs featuring information about sports people and sporting events; providing information relating to sports; sports training services; education services, namely, providing information, instructions and workshops in the field of sports; health education services, namely, providing information, instructions and workshops in the field of sports; providing information in the field of exercise training; providing information on physical exercise; providing online electronic publications and non-downloadable videos in the field of sports and physical fitness.

On or about June 27, 2017, U.S. Registration No. 5,230,136 issued in the name of Respondent.

ANSWER: In answer to Paragraph 6, Respondent asserts that the actual U.S. Trademark registrations referenced in Paragraph 6 are the best evidence of their content. Therefore, Respondent references said U.S. Trademark registrations or applications and denies any allegations inconsistent therewith.

COUNT I – ABANDONMENT

7. *Petitioner is informed and believes that Respondent has discontinued use, in the United States, of the marks described above in connection with the goods/services described Registration Nos. 3499197, 4588981, 5061834, and 5230136 without the intent of resuming such use.*

ANSWER: Respondent denies the allegations of Paragraph 7.

8. *Petitioner is informed and believes that Respondent has not used the marks described above in connection with some or all of the goods/services described in United States Registration Nos. 3499197, 4588981, 5061834, and 5230136 within the United States, at least, over the past three years preceding the filing of this Consolidated Petition for Cancellation.*

ANSWER: Respondent denies the allegations of Paragraph 8.

9. *Petitioner is informed and believes that Respondent has abandoned all use of the marks described above in connection with the goods/services described in United States Registration Nos. 3499197, 4588981, 5061834, and 5230136 within the United States.*

ANSWER: Respondent denies the allegations of Paragraph 9.

10. *Petitioner has been damaged and will be further damaged by the continued registration*

of the marks described above in connection with the goods/services described in United States Registration Nos. 3499197, 4588981, 5061834, and 5230136 within the United States, now believed to be abandoned by Respondent, as Petitioner has an interest in using SKINS as a trademark in the United States in connection with goods/services arguably similar to those set forth in Respondent's registrations.

ANSWER: Respondent is without knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in Paragraph 10.

**II. PETITION FOR CANCELLATION AGAINST
TRADEMARK REGISTRATION NOS. 5563146 and 5736426**

SKINS IP LIMITED, a United Kingdom private limited company ("Petitioner"), believes that it is and will continue to be damaged by United States Registration Nos. 5563146 and 5736426 and hereby petitions for cancellation thereof, as follows:

ANSWER: Respondent is without knowledge sufficient to form a belief as to the truth of the allegations about Petitioner contained in the introductory paragraph of its Petitions for Cancellation, and accordingly denies these allegations. To the extent the introductory paragraph contains any allegations, it is denied.

1. *Petitioner is a United Kingdom private limited company.*

ANSWER: Respondent is without knowledge sufficient to form a belief as to the truth of the allegations about Petitioner in Paragraph 1.

2. *On information and belief, registrant is a Swiss corporation ("Respondent") with a mailing address at Sennweidstrasse 43, Steinhausen, Switzerland 6312.*

ANSWER: Respondent admits that the original registrant was a Swiss corporation with a mailing address at Sennweidstrasse 43, Steinhausen, Switzerland 6312. The relevant trademarks have been assigned to Symphony Holdings Limited, a company incorporated in Bermuda, having a mailing address at 10th Floor, Island Place Tower, 510 King's Road, North Point, Hong Kong.

3. *On April 10, 2017, Respondent filed U.S. Trademark Application Serial No. 79/218880 for the mark SKINS (in design) for registration in connection with the*

following goods and services, under Section 66A of the Trademark Act:

IC 010: Compression garments; compression stockings; medical compression stockings; support garments for medical use; therapeutic garments for people; stockings for therapeutic purposes; articles of clothing for medical support purposes; protective clothing, namely, short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, compression underwear and compression stockings, for medical purposes; medical supports for the body; protective articles, namely, short, half, and three-quarter length compression shorts, compression tights, compression long and short leggings, compression socks, compression sleeves, compression vests, compression jerseys, compression long and short sleeved tops, compression bibs, compression underwear and compression stockings, for medical support purposes; supports for medical purposes, not for athletic purposes; supports for general medical use; elastic stockings for medical purposes; pressure garments for medical treatment; none of the foregoing being made of skin of human, plant or animal origin; and

IC 035: Retail discount store services, wholesale discount store services, and sales promotion discount store services featuring compression garments, clothing, footwear, and headgear; online retail store services featuring compression garments, clothing, footwear, and headgear; retail of clothing, retail store services featuring compression garments, clothing, footwear, and headgear; wholesale store services featuring compression garments, clothing, footwear, and headgear; distributorship services in the field of compression garments, clothing, footwear, and headgear; arranging and conducting of competitions for sports for business purposes; arranging and conducting of competitions for sports for trade purposes; demonstration of goods; demonstration of goods for advertising purposes; demonstration of goods for promotional purposes; demonstration of goods and services by electronic means; the bringing together, for the benefit of others, a variety of goods enabling customers to conveniently view and purchase the goods in the field of compression garments, clothing, footwear, and headgear.

On or about September 18, 2018, U.S. Trademark Application Serial No. 79/218880 matured into U.S. Registration No. 5,563,146, issued in the name of Respondent.

ANSWER: In answer to Paragraph 3, Respondent asserts that the actual U.S. Trademark registrations referenced in Paragraph 3 are the best evidence of their content. Therefore, Respondent references said U.S. Trademark registrations or applications and denies any allegations inconsistent therewith.

4. *On February 16, 2018, Respondent filed U.S. Trademark Application Serial No. 79/237973 for the mark SKINS (in design) for registration in connection with the following goods, under Section 66A of the Trademark Act:*

IC 009: Eyewear; prescription eyewear; sunglasses; sunglasses being optical apparatus; straps for sunglasses; optical lenses for use with sunglasses; frames for sunglasses; devices for supporting sunglasses, namely, stands; anti-glare glasses; cases adapted for glasses; chains for glasses; cyclists' glasses; field glasses; fitted cases for sun glasses; frames for glasses; glasses adapted to protect the eyes; glasses cases; glasses for optical use; glasses frames; high power laser-powered optical glasses; protective eyewear in the nature of industrial safety glasses; inspection glasses other than for medical or dental use; optical lenses for glasses; optical glasses; reading glasses; protective eyewear in the nature of safety optical glasses; sight optical glasses; ski glasses; skiing glasses; spectacles in the nature of glasses; sports glasses in the nature of binoculars; sports glasses in the nature of eye wear; sport glasses in the nature of eye glasses; sport glasses in the nature of protective spectacles

On or about April 30, 2019, U.S. Trademark Application Serial No. 79/237973 matured into U.S. Registration No. 5,736,426, issued in the name of Respondent.

ANSWER: In answer to Paragraph 4, Respondent asserts that the actual U.S. Trademark registrations referenced in Paragraph 4 are the best evidence of their content. Therefore, Respondent references said U.S. Trademark registrations or applications and denies any allegations inconsistent therewith.

COUNT I – ABANDONMENT

5. *Petitioner is informed and believes that Respondent has discontinued use, in the United States, of the marks described above in connection with the goods/services described Registration Nos. 5563146 and 5736426 without the intent of resuming such use.*

ANSWER: Respondent denies the allegations of Paragraph 5.

6. *Petitioner is informed and believes that Respondent has not used the marks described above in connection with some or all of the goods/services described in United States Registration Nos. 5563146 and 5736426 within the United States, at least, over the past three years preceding the filing of this Consolidated Petition for Cancellation.*

ANSWER: Respondent admits that the mark registered under U.S. Trademark Reg. No.

5736426, filed under Section 66A and registered on April 30, 2019, has not been used on some or all of the goods in the United States as of the date of this answer. Respondent denies all other allegations in Paragraph 6.

7. *Petitioner is informed and believes that Respondent has abandoned all use of the marks described above in connection with the goods/services described in United States Registration Nos. 5563146 and 5736426 within the United States.*

ANSWER: Respondent denies the allegations of Paragraph 7.

8. *Petitioner has been damaged and will be further damaged by the continued registration of the marks described above in connection with the goods/services described in United States Registration Nos. 5563146 and 5736426 within the United States, now believed to be abandoned by Respondent, as Petitioner has an interest in using SKINS as a trademark in the United States in connection with goods/services arguably similar to those set forth in Respondent's registrations.*

ANSWER: Respondent is without knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in Paragraph 8.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Petitioner's Petition for Cancellation fails to state a claim upon which relief may be granted.

SECOND DEFENSE

Petitioner lacks standing to cancel Registration Nos. 3499197, 4588981, 5061834, 5230136, 5563146, and 5736426.

THIRD DEFENSE

Petitioner will not be damaged by the continued registration of Registration Nos. 3499197, 4588981, 5061834, 5230136, 5563146, and 5736426.

FOURTH DEFENSE

Petitioner's claims are barred by the doctrine of unclean hands.

FIFTH DEFENSE

Petitioner's claims are barred by the doctrines of laches and acquiescence.

Respondent hereby reserves the right to amend its answer to raise additional affirmative defenses as they become available or apparent to Respondent through discovery in this matter or otherwise.

WHEREFORE, Respondent respectfully requests that the cancellations be denied.

Date: October 21, 2019

OLSHAN FROME WOLOSKY LLP

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CERTIFICATE OF SERVICE

I, Angela Provencio, hereby certify that a true and complete copy of the foregoing ANSWER TO CONSOLIDATED PETITIONS FOR CANCELLATION has been served on the following by forwarding said copy on October 21, 2019, via email to:

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/s/ Angela Provencio _____