

ESTTA Tracking number: **ESTTA1026803**

Filing date: **01/06/2020**

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

Proceeding	92072535
Party	Defendant KBCO Distributors
Correspondence Address	KBCO DISTRIBUTORS 2541 S I H-35, STE 200-268 ROUND ROCK, TX 78664 UNITED STATES no email provided no phone number provided
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Date	01/06/2020
Attachments	2020-01-06_Answer_to_Cancellation.pdf(38336 bytes)

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

MAXWILL, LLC., Petitioner, v. KBCO DISTRIBUTORS, Registrant.	Cancellation No. 92072535 Mark: KICKFIX Int'l Class: 028 Serial No.: 88/097,587 Filed: August 29, 2018 Registered: June 4, 2019
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ANSWER AND DEFENSES TO PETITION FOR CANCELLATION

Registrant KBCO Distributors (“KBCO” or “Registrant”) hereby answers the allegations set forth in the Petition for Cancellation filed by Maxwill, LLC. (“Maxwill” or “Petitioner”), as follows:

1. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Petition for Cancellation and therefore denies the same.

2. Registrant asserts that Registrant has valid and exclusive rights in the mark KICKFIX (“Mark”) for goods identified in its registration with the U.S. Patent and Trademark Office.

3. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Petition for Cancellation and therefore denies the same.

4. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4 of the Petition for Cancellation and therefore denies the same.

5. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5 of the Petition for Cancellation and therefore denies the same.

6. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 of the Petition for Cancellation and therefore denies the same.

7. Registrant asserts that Registrant has valid and exclusive rights in the Mark for goods identified in its registration with the U.S. Patent and Trademark Office.

8. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 of the Petition for Cancellation and therefore denies the same.

9. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9 of the Petition for Cancellation and therefore denies the same.

10. Registrant asserts that likelihood of confusion for trademarks is to be analyzed under trademark law.

11. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 11 of the Petition for Cancellation and therefore denies the same.

12. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12 of the Petition for Cancellation and therefore denies the same.

13. Registrant asserts that the U.S. Patent and Trademark Office's records of trademark applications as reflected in the TESS and TSDR databases speak for themselves. Registrant denies all allegations set forth in Paragraph 13 of the Petition for Cancellation inconsistent therewith.

14. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 14 of the Petition for Cancellation and therefore denies the same.

15. Registrant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 15 of the Petition for Cancellation and therefore denies the same.

16. All allegations set forth in the Petition for Cancellation not expressly admitted herein, are hereby denied.

DEFENSES

Without admitting the allegations set forth in the Petition for Cancellation, Registrant alleges and asserts the following defenses, affirmative or otherwise, without assuming any burden of proof that it would not otherwise have. In addition to the defenses described below and subject to its responses above, Registrant specifically reserves all rights to allege additional defenses, affirmative or otherwise, that become known through the course of discovery.

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

2. Petitioner's alleged marks have not acquired distinctiveness for any related goods or are otherwise descriptive, highly diluted, and/or otherwise weak and should be limited in scope.

3. There is not a likelihood of confusion between Petitioner's mark and the Mark with respect to the goods identified therein.

4. Petitioner's alleged marks are not famous in any relevant field of goods or services. To the extent any of Petitioner's marks have become famous in any relevant field of goods or services, which is hereby expressly denied, on information and belief, such alleged fame arose, if at all, after the filing date of the Mark.

5. Any claims alleged by Petitioner in the Petition for Cancellation are barred by the equitable doctrines of laches, estoppel, acquiescence, waiver, or such other equitable doctrines as may be applicable.

6. Registrant reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Lanham Act, the TBMP, and any other defenses at law or in equity that may now exist or in the future be available based on discovery and further factual investigation in this case.

WHEREFORE, Registrant KBCO Distributors respectfully requests the Petition for Cancellation be dismissed with prejudice.

Dated: January 6, 2020

Respectfully Submitted,

By: /Michael L. Bartholomew/

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Attorneys for Registrant,

KBCO Distributors

I hereby certify that on January 6, 2020, I filed the foregoing ANSWER AND DEFENSES TO PETITION FOR CANCELLATION via the TTAB's ESTTA electronic filing system which effectuated service on all counsel of record. A copy of the foregoing has also been electronically served on Petitioner's counsel of record by email as of the same date as follows:

Kimberly Korn – kimberlykornesq@aol.com

/Michael L. Bartholomew/

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