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

Proceeding	92073770
Party	Defendant Transport Holdings LLC
Correspondence Address	TRANSPORT HOLDINGS LLC 10210 N VANCOUVER WAY PORTLAND, OR 97217 UNITED STATES Trademark@tonkon.com no phone number provided
Submission	Answer
Filer's Name	Parna A. Mehrbani
Filer's email	trademark@tonkon.com
Signature	/Parna Mehrbani/
Date	06/03/2020
Attachments	Answer to Petition for Cancellation.pdf(99557 bytes)

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

In the Matter of Trademark Registration No. 5569372
For the Mark: MX
Date of Issuance: September 25, 2018

MARIO’S EXPRESS SERVICE INC., dba MX Logistics)	Cancellation No. 92073770
)	
Petitioner,)	
)	
v.)	REGISTRANT’S ANSWER TO PETITION FOR CANCELLATION
)	
TRANSPORT HOLDINGS LLC,)	
)	
Registrant.)	

Registrant Transport Holdings LLC (“Registrant”), an Oregon limited liability company, through undersigned counsel, hereby answers the Petition for Cancellation of Mario’s Express Service Inc. (“Petitioner”), and asserts affirmative defenses as follows:

ANSWER

Registrant denies each allegation in the Petition for Cancellation, except those expressly admitted below. Registrant specifically denies each of the unnumbered statements in the Petition for Cancellation, including the unnumbered first paragraph. This Answer is based on Registrant’s investigation to date, and Registrant reserves the right to amend this Answer if and when it learns new information. Registrant notes that the paragraph numbering in the Petition is not

sequential, and paragraph numbers are repeated. Registrant has attempted to track and follow this unconventional numbering scheme in its Answer.

1. Answering the first paragraph 1 (on page 2 of the petition), Registrant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the allegations.

2. Answering the second paragraph 1 (on page 2 of the petition), Registrant admits that based on the U.S. Patent and Trademark Office's ("USPTO") public record, Mario's Express Service Inc. DBA MX Logistics is listed as the owner of federal trademark application Serial No. 88662782, for the mark MX (Stylized):



filed on October 21, 2019, covering "[t]ransportation logistics services, namely, arranging the transportation of goods for others" in International Class 35 and "[t]ransportation and storage of goods" in International Class 39. Except as expressly admitted herein, Registrant denies the allegations in the second paragraph 1 (on page 2 of the petition).

3. Answering the first paragraph 2 (on page 2 of the petition), Registrant admits that based on the USPTO public record, Mario's Express Service Inc. DBA MX Logistics is listed as the owner of federal trademark application Serial No. 88841679 for the mark MX LOGISTICS filed March 20, 2020, covering "[t]ransportation logistics services, namely, arranging the transportation of goods for others" in International Class 35 and "[t]ransportation and storage of goods" in

International Class 39. Except as expressly admitted herein, Registrant denies the allegations in the first paragraph 2 (on page 2 of the petition).

4. Answering the second paragraph 2 (on page 2 of the petition), Registrant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the allegations.

5. Answering the first paragraph 3 (on page 2 of the petition), Registrant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the allegations.

6. Answering the first paragraph 4 (on page 2 of the petition), Registrant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the allegations.

7. Answering the third paragraph 1 (on page 3 of the petition), Registrant admits that the documents attached as Exhibit A to the petition appear to be, at least in part, (i) a copy of the status from the USPTO's TSDR database for Serial No. 88662782, and (ii) Application Serial No. 88841679 from the USPTO TEAS system. Registrant further responds that the documents speak for themselves and require no further admission or denial from Registrant. Except as expressly admitted herein, Registrant denies the allegations in the third paragraph 1 (on page 3 of the petition).

8. Answering the third paragraph 2 (on page 3 of the petition), Registrant admits only that it owns U.S. Registration No. 5569372 for the mark MX (Stylized):



, that July 21, 2016 is the first use in commerce date alleged in that registration, and that the registration covers “[t]ransportation logistics services, namely, arranging the transportation of goods for others” in International Class 35 and “[s]upply chain logistics and reverse logistics services, namely, storage, transportation and delivery of goods for others by air, rail, ship or truck” in International Class 39. Except as expressly admitted herein, Registrant denies the allegations in the third paragraph 2 (on page 3 of the petition), expressly including denial of the last three lines of that paragraph.

9. Answering the second paragraph 3 (on page 3 of the petition), Registrant admits that MX Logistics, LLC, an Oregon limited liability company, is a related company of Registrant.

10. Answering the second paragraph 4 (on page 3 of the petition), Registrant admits only that the former name of MX Logistics, LLC was Market Express Logistics, LLC. Except as expressly admitted herein, Registrant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the second paragraph 4 (on page 3 of the petition) and therefore denies the allegations, expressly including denial of the first two lines of that paragraph.

11. Answering paragraph 5, Registrant denies the allegations contained therein. Registrant further responds that the allegations in paragraph 5 are, or call for, a legal conclusion to which no response from Registrant is required.

12. Answering paragraph 6, Registrant denies the allegations contained therein. Registrant further responds that the allegations in paragraph 6 are, or call for, a legal conclusion to which no response from Registrant is required.

13. Answering paragraph 7, Registrant denies the allegations contained therein.

14. Answering paragraph 8, Registrant admits only that the document attached as Exhibit B to the petition appears to be a copy of the status from the USPTO's TSDR database for Registration No. 5569372, and a copy of the registration certificate for Registration No. 5569372. Registrant further responds that the documents speak for themselves and require no further admission or denial from Registrant. Except as expressly admitted herein, Registrant denies the allegations contained in paragraph 8.

Registrant states that no response is required to Petitioner's Prayer for Relief, as it contains legal conclusions. To the extent a response is required, Registrant denies the allegations contained therein.

FIRST AFFIRMATIVE DEFENSE

15. Petitioner's claims are barred, in whole or in part, because the Petition for Cancellation, and each purported allegation contained therein, fails to state a legal ground for cancellation or a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

16. Petitioner’s claims are barred, in whole or in part, because the Petition for Cancellation, and each purported allegation contained therein, fails to state a factual ground for cancellation or a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

17. Petitioner’s claims are barred, in whole or in part, by the doctrines of laches, waiver, estoppel, and acquiescence.

FOURTH AFFIRMATIVE DEFENSE

18. Petitioner’s claims are barred, in whole or in part, by the doctrine of unclean hands.

PRAYER FOR RELIEF

WHEREFORE, Registrant prays that the Petition for Cancellation be denied in its entirety and dismissed with prejudice and for such other and further relief as the Board may deem just and proper.

Dated: June 3, 2020



Parna Mehrbani
Eric Beach
Tonkon Torp LLP
parna.mehrbani@tonkon.com
eric.beach@tonkon.com
888 SW Fifth Avenue, Suite 1600
Portland, Oregon 97204-2099
(503) 802-2170
FAX: (503) 274-8779
Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the foregoing **REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION** to be sent via e-mail, on the date set forth below, to Petitioner's Attorney of Record, as follows:

Jill Anderfuren
Lewis Brisbois Bisgaard & Smith LLP
550 West Adams Street
Chicago, IL 60661
usdocket@lewisbrisbois.com
dan.decarlo@lewisbrisbois.com

Dated: June 3, 2020



Parna Mehrbani
Attorneys for Registrant

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