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

Proceeding	92075628
Party	Defendant Bad Boy Calls LLC
Correspondence Address	BAD BOY CALLS LLC 544 COUNTY ROAD 2400 DEWEY, IL 61840 UNITED STATES No email provided. No phone number provided.
Submission	Answer
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Date	12/13/2020
Attachments	Answer of Bad Boy Calls.pdf(73619 bytes)

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Mark: BAD BOY CALLS
U.S. Trademark Registration No.:
5,070,850 Registered: November 1, 2016

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

PRO-TRACKER IP HOLDING, LLC,)	
)	
Petitioner,)	
)	Cancellation No. 92075628
v.)	
)	
BAD BOY CALLS LLC)	
)	
Registrant.)	
)	
)	

ANSWER TO PETITION FOR CANCELLATION

Respondent BAD BOY CALLS LLC (“Bad Boy” or “Registrant”) hereby answers the Petition of PRO-TRACKER IP HOLDING, LLC (“Pro-Tracker” or “Petitioner”), requesting that the Trademark Trial and Appeal Board cancel U.S. Registration No. 5,070,850 for the mark BAD BOY CALLS for use on Bird calls; Hunting game calls (“Registrant’s Mark”), as follows:

PARTIES

1. Petitioner Pro-Tracker IP Holding, LLC is an Idaho Limited Liability Company (hereinafter referred to as “Petitioner”).

RESPONSE: Bad Boy has insufficient information to admit or deny the allegations contained in Paragraph 1 and demands strict proof thereof, and otherwise denies the allegations.

2. Upon information and belief, Registrant, Bad Boy Calls LLC, is a former Illinois Limited Liability Company, with an address of 544 County Road 2400, Dewey, Illinois 61840 (hereinafter referred to as “Registrant”).

RESPONSE: Bad Boy denies that it is a former Illinois Limited Liability Company, but otherwise admits the allegations in Paragraph 2. Bad Boy further states that as provided in the Article 35 of the Illinois Limited Liability Company Act (805 ILCS 180/35-1 et seq.), after dissolution a limited liability company continues after dissolution for the purpose of winding up its business.

3. Upon information and belief, Registrant has been involuntary dissolved by the Illinois Department of State. Bad Boy further states that as provided in the Article 35 of the Illinois Limited Liability Company Act (805 ILCS 180/35-1 et seq.), after dissolution a limited liability company continues after dissolution for the purpose of winding up its business.

RESPONSE: Bad Boy admits that the publically accessible records of the Illinois Secretary of State reflect that Bad Boy was “involuntarily dissolved” by the Illinois Secretary of State as of Friday, February 14, 2020. Bad Boy further states that as provided in the Article 35 of the Illinois Limited Liability Company Act (805 ILCS 180/35-1 et seq.), after

dissolution a limited liability company continues after dissolution for the purpose of winding up its business.

FACTS

4. On January 7, 2019, Petitioner filed U.S. Trademark Application No. 88/252,594 for the mark BAD BOYS.

RESPONSE: Bad Boy has insufficient information to admit or deny the allegations contained in Paragraph 4 and demands strict proof thereof, and otherwise denies the allegations.

5. On February 6, 2020, a Final Office Action refused Petitioner's application due to a Section 2(d) refusal based on Registration No. 5,070,850.

RESPONSE: Bad Boy has insufficient information to admit or deny the allegations contained in Paragraph 5 and demands strict proof thereof, and otherwise denies the allegations.

6. On June 13, 2013, Registrant filed U.S. Trademark Application No. 85/955,218 (the '218 Application) for the mark BAD BOY CALLS (the "Mark").

RESPONSE: Bad Boy admits that it filed U.S. Trademark Application No. 85/955,218, but corrects the alleged filing date to June 10, 2013.

7. On February 7, 2012, the subject '850 Registration (U.S. Trademark Registration No. 5,070,850) issued from the '218 Application.

REPOSNE: Bad Boy admits U.S. Trademark Registration No. 5,07,0850 issued from U.S. Trademark Application No. 85/955,218, but corrects the registration date to November 1, 2016.

8. Upon information and belief, Registrant operated the Facebook.com business webpage www.facebook.com/badboycalls/ and badboycalls.myshopify.com, from about November 2016 to about December 29, 2018. See Exhibit 1.

RESPONSE: Bad Boy admits the allegations contained in Paragraph 8.

9. On December 29, 2018, Registrant posted an announcement via its Facebook.com business page to its existing and potential clientele that “Our shop is closed due to family reasons. Please respect our privacy and we apologize for the inconvenience.” See Exhibit 1.

RESPONSE: Bad Boy admits the allegations contained in Paragraph 9 to the extent the identified announcement was posted on or around December 29, 2018.

10. On February 14, 2020, the Secretary of State, Jesse White, for the State of Illinois, recorded Involuntary Dissolution, on 14 February 2020, of Bad Boy Calls LLC. See Exhibit 2.

RESPONSE: Bad Boy admits that the publically available records of the Illinois Secretary of State reflect Bad Boy was “involuntarily dissolved” by the Illinois Secretary of State as of Friday, February 14, 2020. Bad Boy further states that as provided in the Article 35 of the Illinois Limited Liability Company Act (805 ILCS 180/35-1 et seq.), after dissolution a limited liability company continues after dissolution for the purpose of winding up its business.

11. The last known email address for Registrant in U.S. Patent and Trademark Office records is mdeering@meyercafel.com.

RESPONSE: Bad Boy has insufficient information to admit or deny the allegations contained in Paragraph 11, but admits that mdeering@meyercafel.com is the email address of Bad Boy’s Attorney and Correspondent of record for U.S. Trademark Registration No. 5,070,850.

12. Upon information and belief, Registrant sold devices marked with the BAD BOY CALLS Mark but has not used the BAD BOY CALLS mark in at least 22 months and is not currently in business.

RESPONSE: Bad Boy admits it sold devices marked with the BAD BOY CALLS Mark, that Bad Boy itself has not used the BAD BOY CALLS Mark in at least 22 months, and that Bad Boy is not currently in business. Bad Boy further states that Bad Boy assigned its rights and interests in and to BAD BOY CALLS and U.S. Trademark Registration No. 5,070,850 to the commonly controlled entity, TTek, Inc., a Delaware corporation duly authorized to do business in the state of Illinois.

13. Upon information and belief, Registrant does not sell any products under the BAD BOY CALLS mark and has not used the mark in the ordinary course of trade since at least as early as December 29, 2018.

RESPONSE: Bad Boy admits that Bad Boy itself does not sell any products under the BAD BOY CALLS Mark and has not itself used the Mark in the ordinary course of trade since at least as early as December 29, 2018. Bad Boy further states that the assignee of its rights and interests in and to BAD BOY CALLS and U.S. Trademark Registration No. 5,070,850, to the commonly controlled entity, TTek, Inc., a Delaware corporation duly authorized to do business in the state of Illinois, has used the mark in the ordinary course of trade since at least as early as December 29, 2018, and continues to do so as of the date of this Answer.

14. Upon information and belief www.facebook.com/badboycalls/ has not been updated nor any activity seen since the last post on December 29, 2018, indicating its shop would be closing due to “family reasons.”

RESPONSE: Bad Boy has insufficient information to admit or deny the allegations in Paragraph 14 and demands strict proof thereof, and otherwise denies that allegation.

15. Upon information and belief, Registrant’s website badboycalls.myshopify.com is currently unavailable.

RESPONSE: Bad Boy admits that a search of www.badboycalls.myshopify.com discloses the site is currently unavailable on the date of this Answer.

16. Upon information and belief, Registrant has abandoned, without an intent to resume use of, BAD BOYS CALLS.

RESPONSE: Bad Boy denies the allegations of Paragraph 16.

GROUND FOR CANCELLATION
(Abandonment - Trademark Act Section 14(3) & TBMP Section 309.03(C))

17. Petitioner hereby incorporates the preceding facts and allegations as if fully set forth herein.

RESPONSE: Bad Boy hereby incorporates the preceding Responses as if fully set forth herein.

18. Upon information and belief, Registrant has abandoned, without an intent to resume, BAD BOYS CALLS.

RESPONSE: Bad Boy denies the allegations of Paragraph 18.

19. Upon information and belief, Bad Boy Calls LLC has made no use of the mark BAD BOY CALLS since its self-proclaimed closure of business on December 29, 2018.

RESPONSE: Bad Boy admits that Bad Boy itself has made no use of the mark BAD BOY CALLS since December 29, 2018, but otherwise denies the allegations of Paragraph 19. Bad Boy further states that the assignee of its rights and interests in and to BAD BOY CALLS and U.S. Trademark Registration No. 5,070,850, the commonly controlled entity, TTek, Inc., a Delaware corporation duly authorized to do business in the state of Illinois, has used the mark in the ordinary course of trade since at least as early as December 29, 2018, and continues to do so as of the date of this Answer.

20. The '085 Registration must be cancelled because Bad Boy Calls LLC has abandoned, without an intent to resume, BAD BOY CALLS.

RESPONSE: Bad Boy denies the allegations of Paragraph 20. Bad Boy further states that the assignee of its rights and interests in and to BAD BOY CALLS and U.S. Trademark Registration No. 5,070,850, the commonly controlled entity, TTek, Inc., a Delaware corporation duly authorized to do business in the state of Illinois, has used the mark in the ordinary course of trade since at least as early as December 29, 2018, and continues to do so as of the date of this Answer.

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PRAYER FOR RELIEF

WHEREFORE, Registrant, Bad Boy, requests that Board deny Petitioner's request that the '850 Registration be cancelled and that an order in this Cancellation proceeding be entered in Registrant's favor.

All correspondence and telephonic communications should be directed to:

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DATED this 13th day of December, 2020.

Respectfully submitted,

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Certificate of Service

I, Matt C. Deering, hereby certify that a true and complete copy of the foregoing Answer has been served on the Attorney for Petitioner by forwarding said copy on December 13, 2020, via email to:

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