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

Proceeding	92076526
Party	Defendant Original Buff S.A.
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Date	04/02/2021
Attachments	Answer - Cancellation No. 92076526.pdf(169745 bytes )

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


**In the Matter of Trademark Registration No. 6,191,928  
Registered November 10, 2020**

<b>DAVID TEROL, an individual,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Cancellation No. 92076526</b>
	)	
<b>ORIGINAL BUFF S.A.,</b>	)	
	)	
<b>Registrant.</b>	)	

**ANSWER TO PETITION FOR CANCELLATION**

Registrant Original Buff S.A. (“BUFF” or “Registrant”) hereby responds to the Petition for Cancellation filed by Petitioner David Terol (“Petitioner”) as follows, stating that all allegations not specifically admitted are denied:

In answering the Petition for Cancellation’s preamble, Registrant is without sufficient information to form a belief as to the truth of the allegations related to Petitioner’s location and place of business and on that basis denies the same. Registrant specifically denies that Petitioner is being or will be damaged by Registrant’s U.S.

Trademark Registration No. 6,191,928 for the mark  in connection with the goods listed in the registration (the “Subject Registration”). Registrant admits that it owns the Subject Registrations, that it is a Sociedad Anonima organized in Spain, and that its address is C/França 16, E-08700 Ingulada, Barcelona, Spain. To the extent there are any remaining allegations in the preamble, they are denied.

1. Registrant is without information sufficient to form a belief as to the truth

of the allegations contained in Paragraph 1 and therefore denies the same.

2. Registrant admits that according records available at the United States Patent and Trademark Office Petitioner is the owner of Petitioner's Registration, which records show was registered on January 19, 2002. Registrant is without information regarding the validity and enforceability of Petitioner's Registration and therefore denies any allegations thereto.

3. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 and therefore denies the same.

4. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 and therefore denies the same.

5. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 and therefore denies the same.

6. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 and therefore denies the same.

7. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 and therefore denies the same.

8. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 and therefore denies the same.

9. Registrant admits that it applied to register the mark in the Subject Registration with the European Union Intellectual Property Office on March 28, 2018 for goods in Classes 24 and 25. Registrant denies that the mark in the Subject Registration is an "Infringing Mark." To the extent there are any remaining allegations in Paragraph 9, they are denied.

10. Registrant admits the mark in the Subject Registration was registered to Registrant by the European Union Intellectual Property Office on August 14, 2021 in E.U. Registration No. 017881379 for goods in Classes 24 and 25. Registrant denies that the mark in the Subject Registration is an “Infringing Mark.” To the extent there are any remaining allegations in Paragraph 10, they are denied.

11. Registrant admits that on May 30, 2019, Registrant applied to register the mark in the Subject Registration in International Classes 24 and 25.

12. Registrant admits that the mark in the Subject Registration was registered on November 10, 2020 in Registration No. 6,191,928 for good in International Classes 24 and 25 as identified in the Subject Registration.

COUNT ONE – PRIORITY OF USE AND LIKELIHOOD OF CONFUSION

13. Registrant repeats, realleges, and incorporates by reference, as though set forth in full, Registrants responses to Paragraphs 1-12 above

14. Registrant is without information sufficient to form a belief as to the truth of allegations of Paragraph 14 and therefore denies the same.

15. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 15 and therefore denies the same.

16. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 16 and therefore denies the same.

17. Registrant admits that Petitioner’s Registration was registered with the USPTO on January 19, 2016 and that the Subject Registration was registered on November 10, 2020. To the extent not admitted, the allegations of Paragraph 17 are denied.

18. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 18 and therefore denies the same.

19. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 19 and therefore denies the same.

20. Registrant denies the allegations of Paragraph 20.

21. Registrant admits that the mark in Petitioner's Registration and the mark in the Subject Registration have the same first six letters. Registrant denies the remaining allegations in Paragraph 21.

22. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 22 and therefore denies the same.

23. Registrant denies the allegations of Paragraph 23.

24. Registrant denies the allegations of Paragraph 24.

25. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 25 and therefore denies the same.

26. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 26 and therefore denies the same.

27. Registrant admits the allegations of Paragraph 27 but denies that the mark in the Subject Registration is infringing any third party mark

28. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 28 and therefore denies the same.

29. Registrant is without information sufficient to form a belief as to the truth of the allegations of Paragraph 29 and therefore denies the same.

30. Registrant is without information sufficient to form a belief as to the truth

of the allegations of Paragraph 30 and therefore denies the same.

31. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31 and therefore denies same.

32. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 and therefore denies same.

33. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 and therefore denies same.

34. Registrant admits that it is not connecting to Petitioner in any way; however, Registrant denies the remaining allegations of Paragraph 34.

35. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 and therefore denies same.

36. Registrant denies the allegations of Paragraph 36.

#### **AFFIRMATIVE DEFENSES**

1. Petitioner has failed to state a claim upon which relief may be granted, especially as to any alleged dilution.

2. Petitioner will sustain no damage, injury, or prejudice as a result of the Subject Registrations.

3. Petitioner has acquiesced and consented to Registrant's use and registration of the Subject Registrations along with registrations of third parties that include the term "coolness" in Classes 24 and/or 25.

4. By way of Petitioner's many years of consent to use and also register the Subject Registrations, and Registrant's reliance on such consent, laches bars Petitioner's requests for cancellation.

5. Registrant reserves the right to assert additional defenses as may be warranted by future discovery or investigation in this cancellation.

WHEREFORE, Registrant requests that judgment be entered in its favor and Petitioner's Petition for Cancellation be dismissed with prejudice.

This the 2nd April, 2021.

Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

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*Attorney for Original Buff S.A.*

**CERTIFICATE OF MAILING**

I do hereby certify that on April 2, 2021, I filed via electronic means (ESTTA) this ANSWER TO PETITION FOR CANCELLATION with the:

U. S. Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

*/ Jacob S. Wharton /*

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Jacob S. Wharton

**CERTIFICATE OF SERVICE BY MAIL**

I do hereby certify that on April 2, 2021, I served a true and correct copy of this ANSWER TO PETITION FOR CANCELLATION on Petitioner's counsel via email at:

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