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

Proceeding	92076586
Party	Defendant Peavey Electronics Corporation
Correspondence Address	PEAVEY ELECTRONICS CORPORATION 5022 HARTLEY PEAVEY DRIVE ATTN: LEGAL DEPT MERIDIAN, MS 39305 UNITED STATES No email provided. No phone number provided.
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Date	04/09/2021
Attachments	Answer - CS Cancellation.pdf(112782 bytes )

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

Adamson Systems Engineering, Inc.

Petitioner,

v.

Peavey Electronics Corporation,

Registrant.

Cancellation No.:

Registration No.: 1486017

Mark: CS®

**ANSWER TO PETITION FOR CANCELLATION**

Registrant, Peavey Electronics Corporation, (“Peavey”) by and through its attorneys, hereby respectfully Answers the Petition for Cancellation (the “Petition”) filed by Adamson Systems Engineering, Inc. (“Petitioner”) as follows. To the extent not explicitly admitted, all allegations in the Petition are denied.

1. Peavey asserts that no response is necessary to Paragraph 1, but to the extent a response is necessary, Peavey denies the allegations and/or legal conclusions contained in Paragraph 1 and leaves Petitioner to their proofs.

2. Admitted.

3. Admitted.

4. Admitted in part, denied in part. Peavey admits Petitioner uses the term “CS-SERIES”. Peavey denies that Petitioner uses the term “CS-SERIES” specifically with “loudspeakers.”

5. Peavey denies the allegations and/or legal conclusions contained in Paragraph 5 and leaves Petitioner to their proofs.

6. Paragraph 6 sets forth legal conclusions and questions of law to which no response is required. To the extent a response is required, Peavey denies any and all remaining allegations and/or legal conclusions contained in Paragraph 6.

7. Peavey asserts that no response is necessary to Paragraph 7, but to the extent a response is necessary, Peavey denies the allegations and/or legal conclusions contained in Paragraph 7 and leaves Petitioner to their proofs.

8. Peavey denies the allegations and/or legal conclusions contained in Paragraph 8.

9. Admitted in part, denied in part. Peavey admits that at certain points the CS® 4000 Power Amplifier has been unavailable for immediate sale. Peavey denies that limited unavailability of one CS® product is evidence of an intent to abandon the Mark or its full product line.

10. Admitted in part, denied in part. Peavey admits that its IPR series was released in 2009. Peavey denies that the release of its IPR series meant the CS® series would be replaced and therefore abandoned.

11. Admitted in part, denied in part. Peavey admits that the webpage in Exhibit 2 of Petitioner's Petition to Cancel was removed from its website. Peavey denies the removal of the webpage is related to any potential abandonment of the CS® mark.

12. Admitted in part, denied in part. Peavey admits that the CS® amplifiers were removed from product catalogs. Peavey denies that the marketing decision to prioritize the promotion of its newer IPR and IPR2 series amplifiers shows any intent to abandon the CS® mark.

13. Admitted in part, denied in part. Peavey admits that customers were encouraged to consider other products. Peavey denies that the marketing decision to prioritize the promotion of its newer products shows any intent to abandon the CS® mark.

14. Admitted in part, denied in part. Peavey admits that information regarding Peavey's CS® amplifiers was added to Peavey's website. Peavey denies the addition of this is related to any potential avoidance of abandonment of the CS® mark.

15. Denied.

16. Paragraph 16 sets forth legal conclusions and questions of law to which no response is required. To the extent a response is required, Peavey denies any and all remaining allegations and/or legal conclusions contained in Paragraph 16.

17. Admitted.

18. Denied.

19. Peavey denies the allegations and/or legal conclusions contained in Paragraph 19.

20. Peavey denies the allegations and/or legal conclusions contained in Paragraph 20.

21. Paragraph 21 sets forth legal conclusions and questions of law to which no response is required. To the extent a response is required, Peavey denies any and all remaining allegations and/or legal conclusions contained in Paragraph 21

22. Admitted in part, denied in part. Peavey admits that there are other products in the audio industry using the initials "CS". Peavey denies that those products are amplifiers or related products and therefore capable of creating consumer confusion through their use of similar marks.

23. Peavey asserts that no response is necessary to Paragraph 23, but to the extent a response is necessary, admitted in part and denied in part. Peavey admits that these products exist. Peavey denies that those products are amplifiers or related products and therefore capable of creating consumer confusion through their use of similar marks.

24. Peavey asserts that no response is necessary to Paragraph 24, but to the extent a response is necessary, Peavey denies the allegations and/or legal conclusions contained in Paragraph 24 and leaves Petitioner to their proofs.

25. Peavey denies the allegations and/or legal conclusions contained in Paragraph 25 and leaves Petitioner to their proofs.

26. Peavey denies the allegations and/or legal conclusions contained in Paragraph 26 and leaves Petitioner to their proofs.

27. Peavey denies the allegations and/or legal conclusions contained in Paragraph 27 and leaves Petitioner to their proofs.

28. Peavey denies the allegations and/or legal conclusions contained in Paragraph 28.

### **AFFIRMATIVE DEFENSES**

Peavey undertakes the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated below. Peavey expressly reserves the right to plead additional affirmative and other defenses should any such defenses be revealed by discovery in this case. As and for its affirmative and other defenses, Peavey states as follows:

#### **First Affirmative Defense**

Peavey alleges on information and belief that the opposition is barred by the doctrine of acquiescence. Adamson has not previously opposed Peavey's use of the CS® mark in commerce despite Peavey's use of the CS® mark in commerce for more than forty (40) years.

#### **Second Affirmative Defense**

The Peavey CS® mark has developed secondary meaning within the industry.

**Third Affirmative Defense**

Peavey alleges on information and belief that as a result of Petitioner's own acts and/or omissions, the opposition is barred by the doctrine of laches. Peavey has continuously used the CS® mark since the late 1970's.

**Fourth Affirmative Defense**

Peavey alleges on information and belief that as a result of Petitioner's own acts and/or omissions, the opposition is barred by the doctrine of unclean hands.

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**WHEREFORE**, Peavey requests that the Cancellation be dismissed with prejudice, together with whatever other relief the Board may deem appropriate.

DATED: April 9, 2021.

Respectfully submitted,

/Ronald S. Bienstock/

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 9, 2021, I caused a true and correct copy of the foregoing Answer and Affirmative Defenses to be served on Petitioner's counsel by email at the address below:

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*/Ronald S. Bienstock/*

Ronald S. Bienstock, Esq.

**CERTIFICATE OF FILING**

I hereby certify that this Answer with Affirmative Defenses, including all related documents, is being transmitted to the United States Patent and Trademark Office, Trademark Trial and Appeal Board, via the TTAB's ESTTA procedure on April 9, 2021.

*/Ronald S. Bienstock/*

Ronald S. Bienstock, Esq.