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

Proceeding	92076810
Party	Defendant John Capovani
Correspondence Address	JOHN CAPOVANI 144 PUTNAM ROAD ROTTERDAM, NY 12306 UNITED STATES Primary Email: jjcred518@gmail.com 518-424-2247
Submission	Answer
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Signature	/Lee Palmateer/
Date	05/09/2021
Attachments	0370002-Answer.pdf(243548 bytes )

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

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Y.Y.G.M. SA,

Petitioner,

Cancellation No. **92076810**

vs.

JOHN CAPOVANI,

Respondent

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**ANSWER**

Respondent, through counsel Lee Palmeteer of the Lee Palmeteer Law Office LLC, hereby responds to Petitioner's Petition as follows:

1. DENIES the allegations contained in Paragraph 1 of the Petition for lack of sufficient knowledge and information to form a belief as to the truth of the matters asserted therein.
2. ADMITS the allegations contained in Paragraph 2 of the Petition.
3. ADMITS that the initial trademark application did not designate a filing basis or a date of first use, and that in a Response to Office Action submitted on January 9, 2020 Respondent indicated **AT LEAST AS EARLY AS** October 17, 2017 in response to the FIRST USE ANYWHERE DATE part of the Response form and indicated **AT LEAST AS EARLY AS** October 5, 2018 in response to the FIRST USE IN COMMERCE DATE part of the Response form, and otherwise DENIES the allegations contained in said Paragraph 3 of the Petition.
4. DENIES the allegations contained in Paragraph 4 of the Petition for lack of sufficient knowledge and information to form a belief as to the truth of the matters asserted therein.
5. ADMITS the allegations contained in Paragraph 5 of the Petition.
6. DENIES the allegations contained in Paragraph 6 of the Petition for lack of sufficient knowledge and information to form a belief as to the truth of the matters asserted therein.

7. DENIES the allegations contained in Paragraph 7 of the Petition.

8. ADMITS that the domain *ratbastardsupplyco.com* was registered on April 9, 2019, and otherwise DENIES the allegations contained in Paragraph 8 of the Petition.

9. DENIES the allegations pertaining to “the Wayback Machine” contained in Paragraph 9 of the Petition for lack of sufficient knowledge and information to form a belief as to the truth of the matters asserted therein, DENIES the allegations pertaining to the ambiguous terms “under construction” and “first several months” of said paragraph, and otherwise DENIES the allegations contained in Paragraph 9 of the Petition.

10. DENIES the allegations contained in Paragraph 10 of the Petition.

11. DENIES the allegations contained in Paragraph 11 of the Petition.

RESPONDENT’S FIRST AFFIRMATIVE DEFENSE  
(Standing)

12. Petitioner lacks standing required of a petitioner to commence and maintain these proceedings.

13. Petitioner lacks real interest in this matter and have no reasonable basis in fact to believe they will be harmed by the registrations-in-suit.

14. Petitioner is not a real party in interest to the purported trademark rights upon which it bases its standing and its claims.

15. The trademark application upon which Petitioner base its standing and its claims (hereinafter “Petitioner’s Application”) was void *ab initio* on the grounds that the applicant thereof did not own the requisite interest in the trademark to make a valid application.

16. Petitioner does not have and has not had at any time relevant hereto any ownership interest in Petitioner’s Application.

RESPONDENT'S SECOND AFFIRMATIVE DEFENSE  
(Failure to State Claim)

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

RESPONDENT'S THIRD AFFIRMATIVE DEFENSE  
(Unclean Hands)

18. Petitioner is barred from the relief it seeks under the doctrine of unclean hands.

RESPONDENTS' FOURTH AFFIRMATIVE DEFENSE  
(Laches, Estoppel and/or Acquiescence)

19. Petitioner's claims are barred by the doctrines of laches, estoppel and/or acquiescence

RESPONDENTS' FIFTH AFFIRMATIVE DEFENSE  
(Pleading Standards of Rules 8 and 9)

20. The Petition fails the pleading standards of Rules 8 and 9 of the Federal Rules of Civil Procedure and fails to plead fraud with the requisite specificity under Rule 9 of the Federal Rules of Civil Procedure.

**REQUEST FOR RELIEF**

Wherefore, Respondent request the following relief:

1. Dismissal with prejudice of Petitioner's Petition.
2. Such other relief as this Board deems appropriate.

Dated: May 9, 2021

/s/Lee Palmateer  
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## Certificate of Service

The undersigned hereby certifies that, on this date, a copy of this paper has been served upon Opposer by email at the email address of record of their counsel of record, including:

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Respectfully submitted,

Dated: May 9, 2021

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