

ESTTA Tracking number: **ESTTA1148297**

Filing date: **07/21/2021**

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

Proceeding	92077133
Party	Defendant Learning Circle Kids LLC and Reader Bee, LLC
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Date	07/21/2021
Attachments	LERNT002US.Reader Bee Answer to Petition for Cancellation.pdf(157698 bytes )

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

*In the matter of:*

Registration No. 4,642,327

Application Filing Date: September 12, 2013

Mark: READER BEE

	)	
	)	
Beereaders, Inc.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92077133
	)	
Learning Circle Kids, LLC; and	)	
Reader Bee, LLC	)	
	)	
	)	
Respondent.	)	
	)	
	)	

**READER BEE, LLC’S ANSWER TO PETITION TO CANCEL**

Reader Bee, LLC (hereinafter “Respondent”), by and through counsel, states as follows in answer to the Petition to Cancel (“Petition”) filed by Beereaders, LLC (hereinafter, “Petitioner”), on May 13, 2021.

Respondent was joined in this proceeding and notice of the same was served by the Board on June 30, 2021. Absent a deadline provided by the Board, and Pursuant to Federal Rule of Civil Procedure 12(1)(A)(i), respectfully, Respondent concludes that its Answer is due 21 days from service, or by July 21, 2021.

Further, Respondent acknowledges the Board’s order dated July 7, 2021, stating as follows:

Proceedings are suspended pending disposition of Petitioner’s July 5, 2021 motion. Any submission filed during the pendency of

Petitioner's motion which is not relevant thereto will be given no consideration.

(TTABVUE No. 8 (citing Trademark Rule 2.127(d).) Respondent respectfully contends that the instant Answer is "germane" to Petitioner's July 5, 2021 Motion to Strike and for Default Judgment ("Motion"), *see* Trademark Rule 2.127(d), insofar as Respondent, as a separate joined party in this action, is entitled to and obligated to respond to the Petition, and at least one argument that will be raised in opposition to Petitioner's Motion is that it is premature, insofar as the Motion was filed before Respondent's deadline to respond as a joined party. To the extent the Court disagrees, of course Respondent will not object to the instant Answer being given "no consideration" (*see* TTABVUE No. 8), but Respondent respectfully reserves the right to file another pleading responsive to the Petition if and when the instant suspension of proceedings is lifted (*see id.*).

Respondent hereby answers solely for the purpose of this proceeding, to each of the grounds set forth in the Petition, as follows:

In response to the Petition generally, Respondent admits that it is the owner of the Registration.

In response to the unnumbered introductory paragraph of the Petition:

- Respondent denies that the Registration at issue in the Petition is for the mark Learning Circle Kids LLC;
- Respondent denies that registration number 4,642,327 is for the mark Learning Circle Kids LLC;
- Respondent denies that Petitioner is being or will continue to be damaged by the continuing registration of the mark set forth in the Registration.

Respondent answers the numbered paragraphs of the Petition as follows.

1. Respondent is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 1, and therefore, denies that same.

2. Respondent is without sufficient knowledge or information to form a belief as to

the allegations of Paragraph 2, and therefore, denies that same.

3. Respondent is without sufficient knowledge or information to form a belief as to the allegations of paragraph 3, and therefore, denies that same.

4. Respondent is without sufficient knowledge or information to form a belief as to the allegations of paragraph 4, and therefore, denies that same

5. Respondent is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 5, and therefore, denies that same.

6. Respondent is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 6, and therefore, denies that same.

#### **Registrant's Trademark<sup>1</sup>**

5. Petitioner has repeated paragraph number 5 in the Petition. For ease of reference, Respondent will continue to use the same paragraph numbers that the Petitioner used in the Petition (note that this No. 5 corresponds with No. 5 under "Registrant's Trademark" in the Petition). Respondent admits that it is the owner of record for Registration Number 4,642,327. Respondent admits that the Registration was issued by the USPTO, and respectfully submits that the content of the Registration speaks for itself.

6. Petitioner has repeated paragraph number 6 in the Petition. For ease of reference, Respondent will continue to use the same paragraph numbers as the Petitioner used in the Petition (note that this No. 6 corresponds with No. 6 under "Registrant's Trademark" in the Petition). Respondent admits the allegations set forth in Paragraph 6.

7. Respondent admits the allegations set forth in Paragraph 7.

#### **PRIORITY AND LIKELIHOOD OF CONFUSION**

7. Petition has repeated paragraph number 7. For ease of reference, Respondent will continue to use the same paragraph number as the Petitioner used in the Petition (note that this

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<sup>1</sup> While the Petition refers to "Registrant" and "Registrant's Trademark," Respondent contends that co-Defendant Learning Circle Kids, LLC would properly be considered the mark's "registrant," insofar as it was the party that originally registered the mark in question.

No. 7 corresponds with No. 7 under “PRIORITY AND LIKELIHOOD OF CONFUSION” in thePetition). Respondent repeats and realleges all the preceding answers as if as though fully set forth herein.

8. Respondent is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 8, and therefore, denies that same.

9. Respondent is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 9, and therefore, denies that same.

10. Respondent denies that Petitioner is being or will continue to be damaged by the continuing registration of the mark set forth in the Registration, insofar any relevant trademark right of Petitioner is junior to the Registration, and therefore any damage arising from any confusion, mistake, or deception caused by false suggestion of a connection between Respondent and/or its goods and Petitioner would be suffered by Respondent and/or the Owner of the Registration due to Petitioner’s infringement of Respondent’s Mark.

#### **DILUTION**

11. Respondent repeats and realleges all the preceding answers as if as though fully set forth herein.

12. Respondent denies the allegations set forth in paragraph 12.

13. Respondent denies the allegations set forth in paragraph 12.

14. Respondent denies the allegations set forth in paragraph 14.

#### **FALSE SUGGESTION OF A CONNECTION**

15. Respondent repeats and realleges all the preceding answers as if as though fully set forth herein.

16. Respondent admits the allegations set forth in Paragraph 16.

17. Respondent is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 17, and therefore, denies that same.

18. Respondent admits the allegations set forth in Paragraph 18.

19. Respondent is without sufficient knowledge or information to form a belief as to

the allegations of Paragraph 19, and therefore, denies that same.

20. Respondent denies the allegations set forth in paragraph 20.

**ABANDONMENT**

21. Respondent denies the allegations set forth in paragraph 21.

22. Respondent denies the allegations set forth in paragraph 22.

23. Respondent denies the allegations set forth in paragraph 23.

**AFFIRMATIVE DEFENSES**

1. Respondent asserts that even if the allegations in the Petition were taken as true, though the Respondent does not agree that they are, Petitioner's grounds for cancellation for likelihood of confusion should be denied because the Petition was filed more than five years after the registration date of the Registration. For at least this reason, the Petition should be denied.

2. Respondent asserts that even if the allegations in the Petition were taken as true, though the Respondent does not agree that they are, the Registration has priority over the Petitioner's U.S. trademark application number 90709188 (hereinafter "Petitioner's Mark") and, therefore, Petitioner's grounds for cancellation for priority, likelihood of confusion, dilution, and false suggestion of a connection are unavailable to the Petitioner. The Petitioner's Mark has a filing date of May 13, 2021—the same day that the Petition was filed—and claims priority to a Mexican trademark application number 2201233, having a filing date of November 20, 2020. The Respondent's Registration was registered more than six years before the filing date of the Petitioner's mark (*i.e.*, the filing date of the Mexican trademark application) and the Registration was first used in commerce more than six years before the Petitioner's Mark. For at least this reason, the Petition should be denied.

3. Respondent asserts the defense of laches, as the Registration was issued on November 18, 2014, more than five years from when the Petition was filed. Petitioner has unduly delayed in bringing the Petition.

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**PRAYER FOR RELIEF**

WHEREFORE, Respondent prays that the Petition be denied.

Respectfully submitted,

Reader Bee, LLC

*Zephyr Andrew*

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EcoTech Law Group, P.C.

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true copy of the foregoing **READER BEE, LLC's ANSWER TO PETITION TO CANCEL** was served upon Petitioner by email, on this day of July 21, 2021, at the following address:

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Zephyr Andrew, Esq.  
Attorney for Respondent