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

Proceeding	92077163
Party	Defendant ADP, Inc.
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Date	08/17/2021
Attachments	Answer to Wisepay Cancellation re WISELY and WISELY _ Design.pdf(159674 bytes)

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

In the matter of Registration Nos. 5,984,501 and 5,986,500

Marks: WISELY and 

Wisepay Inc.,

Petitioner,

v.

ADP, Inc.,

Respondent.

Cancellation No. 92077163

Attorney's Reference: 27319.540887

**ANSWER TO CONSOLIDATED PETITION FOR CANCELLATION AND
MODIFICATION**

ADP, Inc. ("ADP"), by and through its undersigned counsel, hereby answers the Consolidated Petition for Cancellation and Modification by Petitioner Wisepay Inc. ("Petitioner"), as follows:¹

1. ADP is without knowledge or information sufficient to form a belief as to Paragraph 1, and therefore denies the allegations therein.
2. ADP admits the allegations in Paragraph 2.
3. ADP admits the allegations in Paragraph 3.
4. ADP admits the allegations in Paragraph 4.

¹ ADP notes that the paragraph numbering in the Consolidated Petition for Cancellation and Modification is non-sequential. ADP responds to the allegations therein in the order in which they were presented in the Petition, and not in the order of the stated paragraph number.

5. ADP admits that it offers payroll processing and payment services for others. ADP denies the remainder of the allegations in Paragraph 5.

6. ADP denies the allegations in Paragraph 6.

7. Responding to Paragraph 7, ADP admits that its webpage located at <https://info.mywisely.com/about-us> states, among other things, that “*Wisely® is a suite of personalized payment solutions designed to give consumers faster and more flexible choices for how they access their pay and other sources of income.*” To the extent that the foregoing statement was cherry-picked from ADP’s website and proffered to support the position that ADP offers a smaller subset of goods and services than those stated in its registrations for WISELY and WISELY & Design marks, ADP denies the same.

8. ADP admits the allegations in Paragraph 8.

9. ADP denies the allegations in Paragraph 9.

10. ADP denies the allegations in Paragraph 10.

11. ADP denies the allegations in Paragraph 21.

12. ADP denies the allegations in Paragraph 22.

13. ADP denies the allegations in Paragraph 23.

14. ADP denies the allegations in Paragraph 24.

15. Responding to Paragraph 25, ADP admits that Registration No. 5984501 was filed on August 28, 2019 based on use in commerce under Section 1(a), and that Registration No. 5986500 was filed on March 28, 2019 based on intent to use under Section 1(b). ADP denies the remainder of the allegations in Paragraph 25.

16. ADP denies the allegations in Paragraph 26.

17. ADP denies the allegations in Paragraph 27.

18. ADP denies the allegations in Paragraph 11.
19. ADP denies the allegations in Paragraph 12.
20. ADP denies the allegations in Paragraph 28.

PRAYER FOR RELIEF

ADP denies that Petitioner is entitled to the relief sought in its Prayer for Relief, and requests that the same be denied.

AFFIRMATIVE DEFENSES

1. ADP is currently, and has at all relevant times, used the WISELY and WISELY & Design marks, which are the subject of Registration Nos. 5984501 and 5986500, on or in connection with all goods and services stated therein since the dates of first use stated therein.

ADP hereby reserves the right to amend its Answer to raise additional affirmative defenses as they become available or apparent to it through discovery in this matter or otherwise.

Dated: August 17, 2021

Respectfully submitted,

/s/ Sharoni S. Finkelstein

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Attorneys for Respondent ADP, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **ANSWER TO CONSOLIDATED PETITION FOR CANCELLATION AND MODIFICATION** has been served on Wisepay Inc. by forwarding said copy on August 17, 2021, via email to the following counsel of record:

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/s/ Sharoni S. Finkelstein
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