

ESTTA Tracking number: **ESTTA1345027**
Filing date: **03/08/2024**

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

Proceeding no.	92080626
Party	Defendant Peregrine Automotive, LLC
Correspondence address	MARC E HANKIN HANKIN PATENT LAW APC 12400 WILSHIRE BLVD SUITE 1265 LOS ANGELES, CA 90025 UNITED STATES Primary email: courtfiling@hankinpatentlaw.com Secondary email(s): marc@hankinpatentlaw.com, kevin@hankinpatentlaw.com, amyb@hankinpatentlaw.com 310-979-3600
Submission	Motion to Reopen
Filer's name	Marc E. Hankin
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Signature	/Marc E. Hankin/
Date	03/08/2024
Attachments	Revenge - Registrants Motion to Reopen or Withdraw Admissions.pdf(581360 bytes)

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

Petitioner, California Wheel
Distributor, Inc.

v.

Respondent, Peregrine Automotive,
LLC.

Cancellation No. 92080626

Registration No. 5573560

Mark: REVENGE AUTO PARTS

**REGISTRANT’S MOTION TO REOPEN TIME TO RESPOND TO REQUESTS
FOR ADMISSIONS OR TO WITHDRAW ADMISSIONS**

Registrant Peregrine Automotive, LLC (“Registrant”) brings this Motion to Reopen Time to Respond to Requests for Admissions served by Petitioner California Wheel Distributor, Inc. (“Petitioner”) pursuant to Fed. R. Civ. P. 6(b), TBMP § 509, and 37 C.F.R. § 2.116(a); or to Withdraw Admissions pursuant to Fed R. Civ. Proc. 36(b) and TBMP § 525.

I. Background

On October 23, 2023, the Trademark Trial and Appeal Board (the “Board”) issued an Order Granting Registrant’s Motion to Compel (“Discovery Order”) as conceded after Petitioner failed to file an Opposition on October 2, 2023, pursuant to 37 C.F.R. § 2.127(a). (19 TTABVUE) The Discovery Order required Petitioner to serve amended discovery responses without objections, documents, and a privilege log (if applicable) on Registrant no later than November 13, 2024. (19 TTABVUE 2)

On November 9, 2023, Petitioner served discovery requests on Registrant by email, including Requests for Admissions (Burke Decl. ¶2, Ex. A). The deadline for Registrant to respond to Petitioner’s Discovery Requests was December 11, 2023. (Burke Decl. ¶3). However, the discovery cutoff was on December 10, 2023. *Id.* Registrant’s counsel determined that the Requests were untimely because they would have required a response that was due after the close of discovery. *Id.*; Trademark Rule 2.120(a)(3); TBMP §§ 407.01 and 407.03(a).

On November 13, 2023, instead of complying with the Discovery Order, Petitioner filed a Motion “For Leave To File A Response To Respondnet’s Motion To Comepel A Motion To Vacate” [sic] (“Motion to Vacate”) (20 TTABVUE). That same evening, Petitioner’s counsel sent two emails with a total of 39 electronic files to Registrant’s counsel, comprising Petitioner’s production of documents, to which Petitioner refers in its Motion to Vacate. (Burke Decl. ¶4; 20 TTABVUE 3-4). Petitioner’s counsel did not serve amended written discovery responses or a privilege log. (Burke Decl. ¶4)

On December 12, 2023, Petitioner filed a fatally flawed “Notice Pursuant to TBMP 411.03 to Deem Matters Admitted.” (21 TTABVUE) That same day, Registrant filed a Motion for Discovery Sanctions, which addressed Petitioner’s “Notice” and set forth Registrant’s position that Petitioner’s discovery requests were not served timely. (23 TTABVUE 4)

On December 26, 2023, the Board issued an Order retroactively suspending proceedings as of the date the Motion to Vacate was filed (“Suspension Order”). (24 TTABVUE) The Suspension Order issued 16 days after the close of discovery. *Id.*

On March 1, 2024, the Board issued an Order Denying Petitioner’s Motion to Vacate, and addressing Petitioner’s subsequent Notice to deem its RFAs Admitted. (27 TTABVUE) The Board’s Order holds that Petitioner’s discovery requests were not untimely, and reset the close of discovery for April 10, 2024. *Id.* In light of the Board’s Order, Registrant now seeks leave from the Board to respond to Petitioner’s Requests for Admission. Registrant’s proposed Responses to Petitioner’s Requests for Admission have been served on Petitioner and are submitted herewith. (Burke Decl. ¶5, Ex. B)

II. Registrant Seeks Relief to Reopen Time to Respond to, or to Withdraw, Admissions

A party seeking to avoid admissions resulting from a failure to respond “may either (1) move to reopen its time to serve responses to the outstanding admission requests because its failure to timely respond was the result of excusable neglect under Fed. R. Civ. P. 6(b)(1)(B); or (2) the moving party implicitly acknowledges that the responses are late, deemed admitted, and moves to withdraw and amend its admissions

pursuant to Fed. R. Civ. P. 36(b).” TBMP § 525. The two separate avenues of relief may be pursued in the alternative. *Giersch v. Scripps Networks, Inc.*, 85 USPQ2d 1306 (TTAB 2007).

III. Registrant Requests to Reopen Time to Respond to Requests for Admission.

The Board may reopen time for a party to respond to Requests for Admission on a showing of excusable neglect pursuant to Fed. R. Civ. Proc. 6(b)(1)(B), TBMP § 525. As set forth in Registrant’s Motion for Discovery Sanctions, Registrant interpreted the applicable rules to render Petitioner’s discovery requests improperly and untimely served. (23 TTABVUE 4) The Board’s Order issued on March 1, 2024 provided a different interpretation of the applicable rules, and held that Petitioner’s discovery requests were served timely pursuant to the Trademark Rules.

Registrant respectfully submits that its interpretation of the rules was reasonable and in good faith, and that its failure to respond to Petitioner’s Requests for Admission was excusable neglect. Therefore, Registrant requests that the Board reopen the time for Registrant to respond to the Requests for Admission, to avoid “admitting” to things that clearly are not true, which provides good cause for reopening the time to respond (and, as the Responses to the Requests for Admission are being submitted along with this Motion, the time need not be reopened for very long). (Burke Decl. ¶5, Ex. B)

IV. In the Alternative, Registrant Requests to Withdraw Admission.

Alternatively, a party may move to withdraw the effective admissions pursuant to Fed. R. Civ. Proc. 36(b) “when the presentation of the merits of the proceeding will be

subscribed thereby, and the propounding party fails to satisfy the Board that withdrawal or amendment will prejudice said party in maintaining its action or defense on the merits.”

TBMP § 525.

Here, several of the Requests for Admission go directly to the sole issue in this Cancellation Proceeding: whether Registrant has continued to use its REVENGE AUTO PARTS trademark in commerce. Therefore, withdrawal of Registrant’s effective admissions clearly subserves presentation of the merits of this proceeding.

Further, withdrawal and amendment will not prejudice Petitioner. The timing of a party’s motion to withdraw is particularly important in evaluating prejudice. For instance, the Board has found no prejudice to the propounding party when the responding party’s motion to withdraw was granted before the propounding party’s testimony period began. *Hobie Designs Inc. v. Fred Hayman Beverly Hills Inc.*, 14 USPQ2d 2064, 2065 (TTAB 1990). Similarly, the Board found no prejudice when the motion to withdraw was granted during the pretrial stage. *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ2d 1719, 1721 (TTAB 1989). Here, the discovery period has been reopened, and Registrant makes this motion over a month before discovery is scheduled to close. Therefore, Petitioner will not suffer any prejudice if the Board grants Registrant’s motion.

V. Conclusion

Registrant respectfully requests that the Board issue an order reopening Registrant’s time to respond to Petitioner’s Requests for Admission and deeming Registrant’s

Responses filed herewith timely served. In the alternative, Registrant respectfully requests that that the Board issue an order permitting the withdrawal of Registrant's Admissions and allowing them to be amended as set forth in Registrant's Responses filed herewith.

Dated: March 8, 2024

By: /Marc E. Hankin

Marc E. Hankin

Attorney for Registrant, Peregrine
Automotive LLC

HANKIN PATENT LAW, APC
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Declaration of Amy E. Burke

I, Amy E. Burke, declare as follows:

1. I am a Partner with Hankin Patent Law, APC, counsel of record for Registrant Peregrine Automotive LLC (“Registrant”) in this proceeding. I make this declaration based on my personal knowledge.
2. On November 9, 2023, I received an email from counsel for Petitioner California Wheel Distributor, Inc. (“Petitioner”) serving discovery requests on Registrant, including Requests for Admissions. A true and correct copy of Petitioner’s Requests for Admissions is attached hereto as Exhibit A.
3. At the time when Petitioner served its Requests for Admissions on Registrant, the close of discovery was scheduled for Sunday, December 10, 2023. Registrant’s responses to Petitioner’s discovery requests would have been due on Monday, December 11, 2023, which was after the close of discovery. I determined that the Requests were untimely because they would have required a response that was due after the close of discovery.
4. On November 13, 2023, I received two emails from Petitioner’s counsel with Petitioner’s production of documents comprising 39 electronic files. Petitioner did not serve amended written responses to discovery or a privilege log.

5. Attached hereto as Exhibit B is a true and correct copy of Registrant's proposed Responses to Petitioner's Requests for Admission, which I served on Petitioner's counsel by email on March 8, 2024.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Los Angeles, California on March 8, 2024.

By: Amy E. Burke
Amy E. Burke

EXHIBIT A

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

California Wheel Distributor Inc.,

Petitioner,

v.

Peregrine Automotive, LLC,

Respondent.

Cancellation No. 92080626

Registration No. 5,573,560

For Trademark: REVENGE AUTO PARTS

Interlocutory Attorney: WILLIAM D JACKSON

L.A. LAW, PLLC

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Attorney for Petitioner

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Attorneys for Respondent

PETITIONER'S FIRST REQUESTS FOR ADMISSION TO RESPONDENT

Pursuant to Rules 36 and 26 of the Federal Rules of Civil Procedure (“FRCP”), 37 C.F.R. §2.120, and Rule 407 of the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”), Petitioner California Wheel Distributor Inc. (“Petitioner”), by and through its attorney, hereby requests that respondent Peregrine Automotive, LLC’s (“Respondent”) respond to the following Requests for Admission in accordance with the Definitions and Instructions set forth below. As required by FRCP, the Code of Federal Regulations and the TBMP, these Requests are to be answered separately, under oath, and within thirty (30) days after service. These requests are continuing, and responses must be supplemented to the extent required by Fed. R. Civ. P. 26(e).

DEFINITIONS AND INSTRUCTIONS

1. The terms and “Petitioner and “California Wheel Distributor” mean and refer to California Wheel Distributor, Inc.
2. The terms "you," "your," "Respondent," and " Peregrine Automotive, LLC" mean and refer to Peregrine Automotive, LLC, its and his predecessors or successors in interest, any affiliates, agents, partners, consultants, representatives, employees, or other persons acting or purporting to act on any of their behalf.
3. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in its broadest possible sense in the Federal Rules of Evidence and the Federal Rules of Civil Procedure. For further specificity, documents include all information recorded or stored in any electronic medium such as telephonic memory, computer memory, diskettes, SIM cards or magnetic tape. Any document with any remarks such as initials, comments, or notations of any kind is not deemed to be identical to one without such marks, and is to be produced as a separate document.
4. The term "person" means any natural person, partnership, corporation, or other business entity, and all present and former officers, directors, agents, representatives, and employees acting or purporting to act on behalf of such person.
5. The terms “Petition for Cancellation” , and “Petition” mean and refers to the Petition for Cancellation filed in this proceeding by California Wheel Distributor, Inc on September 22, 2022.
6. The term "Answer" means the Answer filed in the present proceeding by you on February 24, 2023.

7. The term "communication" means and includes any transmission or exchange of information between two or more persons, whether orally or in writing, including without limitation, any discussion or information carried on or transmitted by means of letter, note, memorandum, interoffice correspondence, internal office communications, telephone, telex, telecopies, cable, e-mail, instant message, text message, or any other electronic or other medium.
8. The term "Registrant's Mark" means and refers to the Registered U.S. Trademark No. 5,573,560 for REVENGE AUTO PARTS, filed on November 8, 2017, under Application Serial No. 87/676,067.
9. The term "Registrant's Services" means and refers to "On-line wholesale and retail store services featuring auto parts" in international class 035 identified in Registrant's trademark Application Serial No. 87/676,067.
10. The term "Petitioner's Application" means and refers to Petitioner's Trademark Application Serial No. 90/403,196 for R REVENGE and design filed on December 22, 2020.
11. The terms "commerce" or "U.S. commerce" or "United States commerce" shall have the meaning ascribed to the term "commerce" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.
12. The term "use in commerce" or "used in commerce" shall have the meaning ascribed to the term "use in commerce" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.
13. The term "abandoned" shall have the meaning ascribed to the term "abandoned" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.

14. When appropriate in the context of a request, the singular shall encompass the plural; and the masculine gender shall encompass the feminine, and vice versa.
15. The term "all" shall include the collective as well as the singular and shall mean "each," "any," and "every," and these terms shall be interchangeable.
16. terms "concerning" and "concern" mean specifically mentioning, referring to, or relating to matters that are the subject of the request and, where appropriate, having context or content that makes it apparent that matters that are the subject of the request are shown or described.
17. If, in responding to any request, you perceive any vagueness or ambiguity in construing either the request or the instruction or definition relevant to the request, please set forth the matter deemed vague or ambiguous and the construction chosen or used in answering the request.
18. Petitioner's discovery requests seek answers from Respondent which are complete and fully responsive thereto as of the date the answers are executed, and which reflect or embody all relevant information known to Petitioner as of that date. Should Petitioner later learn that any answer was incorrect or incomplete when made, or, though correct or complete when made, is no longer true, the answer shall be timely amended or supplemented as required by Rule 26 of the Federal Rules of Civil Procedure.
19. Each answer to a request shall specifically admit or deny the matter set forth. If you cannot truthfully admit or deny a request, you shall set forth in detail the reason why. You may not give lack of information or knowledge as a reason for failure to deny unless you state you have made a reasonable inquiry and that the information known or readily obtainable is insufficient to enable you to admit or deny.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit the Registrant's Mark was not used in commerce between 9/22/2019 and 9/22/2022.

REQUEST FOR ADMISSION NO. 2:

Admit that no services bearing the Registrant's Mark were offered in commerce between 9/22/2019 and 9/22/2022.

REQUEST FOR ADMISSION NO. 3:

Admit that no services bearing the Registrant's Mark were transported in commerce between 9/22/2019 and 9/22/2022.

REQUEST FOR ADMISSION NO. 4:

Admit that no Services bearing the Registrant's Mark were shipped to any location outside of Montana between 9/22/2019 and 9/22/2022.

REQUEST FOR ADMISSION NO. 5:

Admit that no services bearing the Registrant's Mark were sold to any customer located in a state other than Montana between 9/22/2019 and 9/22/2022.

REQUEST FOR ADMISSION NO. 6:

Admit that no services bearing the Registrant's Mark were transported to any customer located in a state other than Montana between 9/22/2019 and 9/22/2022.

REQUEST FOR ADMISSION NO. 7:

Admit that no Services bearing the Registrant's Mark were transported to any location outside of Montana between 9/22/2019 and 9/22/2022.

REQUEST FOR ADMISSION NO. 8:

Admit the Registrant's Mark was not used in commerce in 2018.

REQUEST FOR ADMISSION NO. 9:

Admit the Registrant's Mark was not used in commerce in 2019.

REQUEST FOR ADMISSION NO. 10:

Admit the Registrant's Mark was not used in commerce in 2020.

REQUEST FOR ADMISSION NO. 11:

Admit the Registrant's Mark was not used in commerce in 2021.

REQUEST FOR ADMISSION NO. 12:

Admit the Registrant's Mark was not used in commerce in 2022.

REQUEST FOR ADMISSION NO. 13:

Admit that the Registrant's Mark is not registered for the goods "Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels" in International Class 12.

REQUEST FOR ADMISSION NO. 14:

Admit that Registrant does not sell under Registrant's Mark "Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels under" in the united States.

REQUEST FOR ADMISSION NO. 15:

Admit that Registrant did not sell under Registrant's Mark "Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle

wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” on or before November 08, 2017 in the United States.

REQUEST FOR ADMISSION NO. 16:

Admit that Registrant did not sell under Registrant’s Mark “Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” in commerce on or before December 22, 2020 in the United States.

REQUEST FOR ADMISSION NO. 17:

Admit that Registrant did not offer for sale under Registrant’s Mark “Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” on or before November 08, 2017 in commerce.

REQUEST FOR ADMISSION NO. 18:

Admit that Registrant did not offer for sale under Registrant’s Mark “Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” on or before December 22, 2020 in commerce.

REQUEST FOR ADMISSION NO. 19:

Admit that Registrant did not sell under Registrant’s Mark “Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” between 2017 and 2022 in commerce.

REQUEST FOR ADMISSION NO. 20:

Admit that Registrant did not offer for sale under Registrant's Mark Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels" between 2017 and 2022 in commerce.

REQUEST FOR ADMISSION NO. 21:

Admit that Registrant does not have any documents created or dated between 2019 and 2022 discussing Registrant intent to resume of Registrant's Services under Registrant's Mark in the commerce.

REQUEST FOR ADMISSION NO. 22:

Admit the Registrant's Mark has never been used in commerce for Wheels.

REQUEST FOR ADMISSION NO. 23:

Admit that no Services bearing the Registrant's Mark have ever been provided in commerce for Wheels.

REQUEST FOR ADMISSION NO. 24:

Admit that no Services bearing the Registrant's Mark have ever been transported in commerce for Wheels.

REQUEST FOR ADMISSION NO. 25:

Admit that no Services bearing the Registrant's Mark have ever been provided to any location outside of Montana between 2019 and 2022.

REQUEST FOR ADMISSION NO. 26:

Admit that Registrant did not provide a physical address for services bearing Registrant's Mark on or before September 22, 2022.

REQUEST FOR ADMISSION NO. 27:

Admit that Registrant's own the domain names: <https://revenge-auto-parts.com/> and <https://peregrineautomotive.com/>.

REQUEST FOR ADMISSION NO. 28:

Admit that Registrant registered the domain name <https://revenge-auto-parts.com/> in 2023.

REQUEST FOR ADMISSION NO. 29:

Admit that Registrant solely utilized eBay.com in 2017 to provide the Registrant's Services under Registrant's Mark.

REQUEST FOR ADMISSION NO. 30:

Admit that Registrant did not have an online wholesale and retail store apart from the eBay account before November 08, 2017.

REQUEST FOR ADMISSION NO. 31:

Admit that Registrant did not offer any services bearing the Registrant's Mark on eBay between 2019 and 2022.

REQUEST FOR ADMISSION NO. 32:

Registrant deactivated or removed their account on eBay.com after 09/22/2022.

REQUEST FOR ADMISSION NO. 33:

Admit that Registrant own the domain name: www.revengeautoparts.com.

REQUEST FOR ADMISSION NO. 34:

Admit that Registrant did not use the domain name www.revengeautoparts.com on or before November 08, 2017, for the Registrant Services.

REQUEST FOR ADMISSION NO. 35:

Admit that Registrant did not use the domain name www.revengeautoparts.com for the Registrant Services between 2017 and 2022.

REQUEST FOR ADMISSION NO. 36:

Admit that the Registrant did not sell any products under the Registrant's Mark from the domain name www.revengeautoparts.com between 2017 and 2022.

REQUEST FOR ADMISSION NO. 37:

Admit that the Registrant did not offer for sale any products under the Registrant's Mark from the domain name www.revengeautoparts.com between 2017 and 2022.

REQUEST FOR ADMISSION NO. 38:

Registrant did not have a ® symbol added next to the Registrant's Mark between Oct. 02, 2018 and September 22, 2022.

REQUEST FOR ADMISSION NO. 39:

Admit that the Registrant included the ® registration symbol next to the Registrant's Mark on its <https://revenge-auto-parts.com/> after the commencement of this cancellation proceeding.

REQUEST FOR ADMISSION NO. 40:

Admit that Registrant did not reference REVENGE AUTO PARTS® on its website, <https://peregrineautomotive.com/>, until after this proceeding was initiated.

Respectfully submitted,

L.A. LAW, PLLC

Dated: November 9, 2023

By: /Lina Asmar/

Lina A. Asmar (Reg. No. 77,845)

24681 Northwestern Hwy

Suite 4007

Southfield, Michigan 48075

Phone: (248) 996-0494

Email: LAsmar@lalawusa.com

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ***PETITIONER'S FIRST REQUESTS FOR ADMISSION TO RESPONDENT*** has been served on Marc E. Hankin, Kevin Schraven, and Amy Burke by forwarding said copy on November 09, 2023, via email to their email addresses of record: courtfilings@hankinpatentlaw.com, marc@hankinpatentlaw.com, kevin@hankinpatentlaw.com, and amyb@hankinpatentlaw.com

L.A. LAW, PLLC

Date: November 9, 2023

By: /Lina A. Asmar/

Lina A. Asmar (Reg. No. 77,845)
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Email: LAsmar@lalawusa.com
Attorney for Petitioner

EXHIBIT B

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

Petitioner, California Wheel
Distributor, Inc.

v.

Respondent, Peregrine Automotive,
LLC.

Cancellation No. 92080626

Registration No. 5573560

Mark: REVENGE AUTO PARTS

**REGISTRANT’S RESPONSES TO PETITIONER’S REQUESTS FOR
ADMISSION**

Registrant Peregrine Automotive, LLC (“Registrant”) responds the Requests for Admission propounded by Petitioner California Wheel Distributor, Inc. (“Petitioner”), as follows:

REQUEST FOR ADMISSION NO. 1:

Admit the Registrant’s Mark was not used in commerce between 9/22/2019 and 9/22/2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Deny.

REQUEST FOR ADMISSION NO. 2:

Admit that no services bearing the Registrant's Mark were offered in commerce between 9/22/2019 and 9/22/2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Deny.

REQUEST FOR ADMISSION NO. 3:

Admit that no services bearing the Registrant's Mark were transported in commerce between 9/22/2019 and 9/22/2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Deny.

REQUEST FOR ADMISSION NO. 4:

Admit that no Services bearing the Registrant's Mark were shipped to any location outside of Montana between 9/22/2019 and 9/22/2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Deny.

REQUEST FOR ADMISSION NO. 5:

Admit that no services bearing the Registrant's Mark were sold to any customer located in a state other than Montana between 9/22/2019 and 9/22/2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Deny.

REQUEST FOR ADMISSION NO. 6:

Admit that no services bearing the Registrant's Mark were transported to any customer located in a state other than Montana between 9/22/2019 and 9/22/2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Deny.

REQUEST FOR ADMISSION NO. 7:

Admit that no Services bearing the Registrant's Mark were transported to any location outside of Montana between 9/22/2019 and 9/22/2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Deny.

REQUEST FOR ADMISSION NO. 8:

Admit the Registrant's Mark was not used in commerce in 2018.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Deny.

REQUEST FOR ADMISSION NO. 9:

Admit the Registrant's Mark was not used in commerce in 2019.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Deny.

REQUEST FOR ADMISSION NO. 10:

Admit the Registrant's Mark was not used in commerce in 2020.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Deny.

REQUEST FOR ADMISSION NO. 11:

Admit the Registrant's Mark was not used in commerce in 2021.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Deny.

REQUEST FOR ADMISSION NO. 12:

Admit the Registrant's Mark was not used in commerce in 2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Deny.

REQUEST FOR ADMISSION NO. 13:

Admit that the Registrant's Mark is not registered for the goods "Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels" in International Class 12.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Admit.

REQUEST FOR ADMISSION NO. 14:

Admit that Registrant does not sell under Registrant's Mark "Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels under" in the united States.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Admit.

REQUEST FOR ADMISSION NO. 15:

Admit that Registrant did not sell under Registrant's Mark "Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels" on or before November 08, 2017 in the United States.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Admit.

REQUEST FOR ADMISSION NO. 16:

Admit that Registrant did not sell under Registrant's Mark "Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels" in commerce on or before December 22, 2020 in the United States.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Admit.

REQUEST FOR ADMISSION NO. 17:

Admit that Registrant did not offer for sale under Registrant's Mark "Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels" on or before November 08, 2017 in commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Admit.

REQUEST FOR ADMISSION NO. 18:

Admit that Registrant did not offer for sale under Registrant’s Mark “Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” on or before December 22, 2020 in commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Admit.

REQUEST FOR ADMISSION NO. 19:

Admit that Registrant did not sell under Registrant’s Mark “Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” between 2017 and 2022 in commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Admit.

REQUEST FOR ADMISSION NO. 20:

Admit that Registrant did not offer for sale under Registrant’s Mark Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” between 2017 and 2022 in commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Admit.

REQUEST FOR ADMISSION NO. 21:

Admit that Registrant does not have any documents created or dated between 2019 and 2022 discussing Registrant intent to resume of Registrant's Services under Registrant's Mark in the commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Deny.

REQUEST FOR ADMISSION NO. 22:

Admit the Registrant's Mark has never been used in commerce for Wheels.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Deny.

REQUEST FOR ADMISSION NO. 23:

Admit that no Services bearing the Registrant's Mark have ever been provided in commerce for Wheels.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Deny.

REQUEST FOR ADMISSION NO. 24:

Admit that no Services bearing the Registrant's Mark have ever been transported in commerce for Wheels.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Deny.

REQUEST FOR ADMISSION NO. 25:

Admit that no Services bearing the Registrant's Mark have ever been provided to any location outside of Montana between 2019 and 2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 25:

Deny.

REQUEST FOR ADMISSION NO. 26:

Admit that Registrant did not provide a physical address for services bearing Registrant's Mark on or before September 22, 2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

Deny.

REQUEST FOR ADMISSION NO. 27:

Admit that Registrant's own the domain names: <https://revenge-auto-parts.com/> and <https://peregrineautomotive.com/>.

RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Admit.

REQUEST FOR ADMISSION NO. 28:

Admit that Registrant registered the domain name <https://revenge-auto-parts.com/> in 2023.

RESPONSE TO REQUEST FOR ADMISSION NO. 28:

Admit.

REQUEST FOR ADMISSION NO. 29:

Admit that Registrant solely utilized eBay.com in 2017 to provide the Registrant's Services under Registrant's Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Deny.

REQUEST FOR ADMISSION NO. 30:

Admit that Registrant did not have an online wholesale and retail store apart from the eBay account before November 08, 2017.

RESPONSE TO REQUEST FOR ADMISSION NO. 30:

Deny

REQUEST FOR ADMISSION NO. 31:

Admit that Registrant did not offer any services bearing the Registrant's Mark on eBay between 2019 and 2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 31:

Admit.

REQUEST FOR ADMISSION NO. 32:

Registrant deactivated or removed their account on eBay.com after 09/22/2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 32:

Deny.

REQUEST FOR ADMISSION NO. 33:

Admit that Registrant own the domain name: www.revengeautoparts.com.

RESPONSE TO REQUEST FOR ADMISSION NO. 33:

Deny.

REQUEST FOR ADMISSION NO. 34:

Admit that Registrant did not use the domain name www.revengeautoparts.com on or before November 08, 2017, for the Registrant Services.

RESPONSE TO REQUEST FOR ADMISSION NO. 34:

Admit.

REQUEST FOR ADMISSION NO. 35:

Admit that Registrant did not use the domain name www.revengeautoparts.com for the Registrant Services between 2017 and 2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Deny.

REQUEST FOR ADMISSION NO. 36:

Admit that the Registrant did not sell any products under the Registrant's Mark from the domain name www.revengeautoparts.com between 2017 and 2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 36:

Deny.

REQUEST FOR ADMISSION NO. 37:

Admit that the Registrant did not offer for sale any products under the Registrant's Mark from the domain name www.revengeautoparts.com between 2017 and 2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 37:

Deny.

REQUEST FOR ADMISSION NO. 38:

Registrant did not have a ® symbol added next to the Registrant's Mark between Oct. 02, 2018 and September 22, 2022.

RESPONSE TO REQUEST FOR ADMISSION NO. 40:

Deny.

REQUEST FOR ADMISSION NO. 39:

Admit that the Registrant included the ® registration symbol next to the Registrant's Mark on its <https://revenge-auto-parts.com/> after the commencement of this cancellation proceeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 39:

Deny.

REQUEST FOR ADMISSION NO. 40:

Admit that Registrant did not reference REVENGE AUTO PARTS® on its website, <https://peregrineautomotive.com/>, until after this proceeding was initiated.

RESPONSE TO REQUEST FOR ADMISSION NO. 40:

Deny.

Dated: March 8, 2024

By: /Marc E. Hankin

Marc E. Hankin
Attorney for Registrant, Peregrine
Automotive LLC

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing REGISTRANT'S RESPONSES TO REQUESTS FOR ADMISSION was served on Petitioner's counsel by electronic mail to counsel's address of record on March 8, 2024.

By: *Amy E. Burke*
Amy E. Burke

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing REGISTRANT’S MOTION TO REOPEN TIME TO RESPOND TO REQUESTS FOR ADMISSIONS OR TO WITHDRAW ADMISSIONS was served on Petitioner’s counsel by electronic mail to counsel’s address of record on March 8, 2024.

By: *Amy E. Burke*
Amy E. Burke