

ESTTA Tracking number: **ESTTA1296208**

Filing date: **07/10/2023**

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

|                        |                                                                                                                                                                                                                                                  |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Proceeding no.         | 92081480                                                                                                                                                                                                                                         |
| Party                  | Defendant<br>BFrank, LLC                                                                                                                                                                                                                         |
| Correspondence address | ERIK J. OSTERRIEDER<br>KEARNEY MCWILLIAMS & DAVIS PLLC<br>55 WAUGH DR<br>SUITE 150<br>HOUSTON, TX 77007<br>UNITED STATES<br>Primary email: ejo@kmd.law<br>Secondary email(s): jdavis@kmd.law, vpatel@kmd.law, trademarks@kmd.law<br>713-936-9622 |
| Submission             | Answer                                                                                                                                                                                                                                           |
| Filer's name           | Erik J. Osterrieder                                                                                                                                                                                                                              |
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| Signature              | /Erik J. Osterrieder/                                                                                                                                                                                                                            |
| Date                   | 07/10/2023                                                                                                                                                                                                                                       |
| Attachments            | 13 - Answer to Amended Petition.pdf(23095 bytes )                                                                                                                                                                                                |

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

|                    |   |                           |
|--------------------|---|---------------------------|
| Frank August LLLP, | § |                           |
| Petitioner,        | § |                           |
|                    | § |                           |
| v.                 | § | Cancellation No. 92081480 |
|                    | § |                           |
| BFrank LLC,        | § | Reg. No. 6,291,012        |
| Registrant.        | § | BFRANK & Design           |
|                    | § | Reg. Date: March 9, 2021  |

**ANSWER TO AMENDED PETITION FOR CANCELLATION**

Registrant BFrank, LLC (“Registrant”), through its undersigned attorney, files this Answer to Petitioner’s Amended Petition for Cancellation (“Petition”) filed by Frank August LLLP (“Petitioner”).

1. As to the unnumbered paragraph directly above paragraph 1 in the Petition, Registrant lacks information sufficient to admit or deny the averments set forth in said unnumbered paragraph, and on that basis denies said averments.
2. As to numbered paragraph 1 of the Petition, Registrant lacks information sufficient to admit or deny whether Petitioner is the owner and on that basis denies said averment, but Registrant admits the remainder of numbered paragraph 1 of the Petition.
3. Registrant admits numbered paragraph 2 of the Petition.
4. Registrant admits numbered paragraph 3 of the Petition.
5. Registrant admits numbered paragraph 4 of the Petition.
6. As to numbered paragraph 5 in the Petition, Registrant lacks information sufficient to admit or deny the averments set forth therein, and on at least that basis denies said averments.
7. As to numbered paragraph 6 in the Petition, Registrant lacks information sufficient to admit or deny the averments set forth therein, and on at least that basis denies said averments.

8. As to numbered paragraph 7 in the Petition, Registrant lacks information sufficient to admit or deny the averments set forth therein, and on at least that basis denies said averments.
9. Registrant denies numbered paragraph 8 of the Petition.
10. As to numbered paragraph 9 in the Petition, Registrant lacks information sufficient to admit or deny the averments set forth therein, and on at least that basis denies said averments.

### **PRAYER**

WHEREFORE, Registrant respectfully requests that the TTAB dismiss, with prejudice, the intent-to-use application associated with Petitioner that seeks to register BE FRANK as a mark.

Respectfully submitted,

Dated: July 10, 2023

By: /Erik J. Osterrieder/  
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ATTORNEY FOR REGISTRANT

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **ANSWER TO AMENDED PETITION FOR CANCELLATION** was served via email on Petitioner at:

Andrew Dorisio: [adorisio@dickinsonwright.com](mailto:adorisio@dickinsonwright.com)

Dated: July 10, 2023

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