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

Proceeding no.	92086567
Party	Defendant Green Shield Home LLC
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Date	12/02/2024
Attachments	Answer and Affirmative Defenses O1US 92086567.pdf(107667 bytes )

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

CONSTRUCTION MANAGEMENT  
CORPORATION d/b/a GREEN SHIELD,

Petitioner,

v.

GREEN SHIELD HOME LLC,

Registrant.

Cancellation No. 92086567  
Registration No. 7,436,374  
For:



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**ANSWER AND AFFIRMATIVE DEFENSES  
TO PETITION FOR CANCELLATION**

Registrant Green Shield Home LLC (“Green Shield”), through its counsel Varnum LLP, states as follows for its Answer and Affirmative Defenses to Petitioner Construction Management Corporation d/b/a Green Shield’s (“Petitioner”) Petition for Cancellation:

1. Green Shield is without knowledge or information sufficient to form a belief as to the truth of this allegation, which has the effect of a denial.

2. Denied as untrue. Specifically, upon information and belief, Green Shield denies that Petitioner is the owner of any trade name and/or trademark rights in “GREEN SHIELD” and/or “GREEN SHIELD BUILDERS”, and further denies that Petitioner has continuously used (or used in any capacity) the trade name and/or trademark “GREEN SHIELD” with respect to a subset of Petitioner’s Services, namely, the construction of decks or composite decks. With respect to the remaining allegations in this paragraph, Green Shield is without knowledge or information sufficient to form a belief as to the truth of these allegations, which has the effect of a denial.

3. Denied as untrue. Specifically, upon information and belief, Green Shield denies that Petitioner is the owner of any trade name and/or trademark rights in “GREEN SHIELD

BUILDERS”, and further denies that Petitioner has continuously used (or used in any capacity) the trade name and/or trademark “GREEN SHIELD BUILDERS” with respect to a subset of Petitioner’s Services, namely, the construction of decks or composite decks. With respect to the remaining allegations in this paragraph, Green Shield is without knowledge or information sufficient to form a belief as to the truth of these allegations, which has the effect of a denial.

4. Green Shield is without knowledge or information sufficient to form a belief as to the truth of this allegation, which has the effect of a denial. Upon information and belief, Green Shield denies that Petitioner is the owner of any trademark rights in the “G Design Logo”, and further denies that Petitioner has continuously used (or used in any capacity) the G Design Logo with respect to a subset of Petitioner’s Services, namely, the construction of decks or composite decks.

5. Green Shield is without knowledge or information sufficient to form a belief as to the truth of this allegation, which has the effect of a denial. Upon information and belief, Green Shield denies that Petitioner is the owner of any trademark rights in the “GREEN SHIELD BUILDERS and Design Logo”, and further denies that Petitioner has continuously used (or used in any capacity) the trade name and/or trademark “GREEN SHIELD BUILDERS” with respect to a subset of Petitioner’s Services, namely, the construction of decks or composite decks.

6. This allegation reflects Petitioner’s characterization of supposed trademarks and/or tradenames that it alleges it owns and/or has otherwise used, to which no response is required. To the extent a response is required, Green Shield denies as untrue that Petitioner is the owner of “Petitioner’s Trademarks and Trade Names,” as alleged herein.

7. Denied as untrue.

8. This paragraph reflects a legal conclusion, to which no response is required. To the extent a response is required, the allegations in this paragraph are denied as untrue.

9. This paragraph reflects a legal conclusion, to which no response is required. To the extent a response is required, Green Shield is without knowledge or information sufficient to form a belief as to the truth of the assertions in this paragraph.

10. Green Shield is without knowledge or information sufficient to form a belief as to the truth of this allegation, which has the effect of a denial.

11. This paragraph calls for a legal conclusion regarding the parties' affiliation and/or contractual relations, to which no response is required. To the extent a response is required, Green Shield admits that Petitioner and registrant are not related companies. With respect to the remaining allegations in this paragraph, Green Shield states that it is without knowledge or information sufficient to form a belief as to the truth of these allegations, which has the effect of a denial.

12. Green Shield is without knowledge or information sufficient to form a belief as to the truth of this allegation, which has the effect of a denial.

13. Denied as untrue.

14. This paragraph reflects a legal conclusion, to which no response is required. To the extent a response is required, the allegations in this paragraph are denied as untrue.

15. This paragraph reflects a legal conclusion, to which no response is required. To the extent a response is required, the allegations in this paragraph are denied as untrue.

16. This paragraph reflects a legal conclusion, to which no response is required. To the extent a response is required, the allegations in this paragraph are denied as untrue.

WHEREFORE, Registrant Green Shield Home LLC (“Green Shield”) respectfully requests that the Board dismiss the Petition for Cancellation with prejudice, enter judgment for Green Shield and against Petitioner, affirm Green Shield’s registration, and further award Green Shield any additional relief as appropriate.

Respectfully Submitted,

Date: December 2, 2024

*/ Jeffrey T. Hewlett /*

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## **AFFIRMATIVE AND OTHER DEFENSES**

Registrant reserves the right to assert all applicable and/or available defenses in this matter, including but not limited to the following:

1. The Petition for Cancellation should be dismissed in accordance with Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted.

2. Petitioner is not the legal, rightful, and/or exclusive owner of Petitioner's Trademarks and Tradenames (as defined in its Petition for Cancellation).

3. Petitioner lacks any enforceable common law rights in and to Petitioner's Trademarks and Tradenames (as defined in its Petition for Cancellation).

4. Petitioner has abandoned, nakedly licensed, and/or failed to enforce or supervise Petitioner's Trademarks and Tradenames (as defined in its Petition for Cancellation).

5. Petitioner has failed to continuously use, and/or has otherwise abandoned, Petitioner's Trademarks and Tradenames (as defined in its Petition for Cancellation).

6. Petitioner's claims are barred by the equitable doctrines of unclean hands, laches, waiver, estoppel, and/or acquiescence.

7. Petitioner's Trademarks and Tradenames (as defined in its Petition for Cancellation) cannot be found to have a likelihood of confusion, mistake, or deception with Green Shield's Registration, and the Petition for Cancellation further fails to identify any facts or likelihood of confusion factors under *DuPont* that would enable this finding.

8. The goods and services with which Green Shield's Registration are used cannot be found to be confusingly similar to Petitioner's goods and/or services.

9. Green Shield's Registration has priority of use over Petitioner's Trademarks and Tradenames (as defined in its Petition for Cancellation).

Green Shield reserves the right to assert additional affirmative defenses and/or counterclaims that may become known or available to Green Shield during further investigation and/or discovery.

Respectfully Submitted,

Date: December 2, 2024

/ Jeffrey T. Hewlett /

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**CERTIFICATE OF ELECTRONIC FILING AND SERVICE**

I hereby certify that on this 2nd day of December 2024, a copy of the foregoing document is being electronically filed with the United State Patent & Trademark Office Trademark Trial and Appeal Board, at <http://esta.uspto.gov/>. I further certify that a copy of the foregoing document has been served on the Petitioner and/or its designated correspondent by e-mail at the following address:

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Date: December 2, 2024

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