

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GLOBAL DNS LLC, a Washington
limited liability company,

Plaintiff,

v.

KOOK'S CUSTOM HEADERS, INC., a
New York corporation,

Defendant.

No. 2:08-cv-00268-RSL

DEFENDANT KOOK'S CUSTOM
HEADERS, INC.'S ANSWERS TO
PLAINTIFF GLOBAL DNS LLC'S
COMPLAINT

**ANSWER AND AFFIRMATIVE DEFENSES OF
DEFENDANT KOOKS CUSTOM HEADERS, INC.**

Defendant Kooks Custom Headers, Inc. ("Kooks Custom Headers") answers the
Complaint of Plaintiff Global DNS LLC ("Global DNS") as follows, wherein numbered
paragraphs 1-45 below correspond to the numbered paragraphs in the Complaint:

I. NATURE OF THE CASE

1. Kooks Custom Headers admits that the Complaint purports to be an action for
declaratory relief, but denies that Plaintiff is entitled to any of the relief requested.

2. Kooks Custom Headers admits that it was incorporated in 1996, admits that
Global DNS registered the Domain Name in the same year, admits that such Domain Name
registration occurred prior to -- but not "long before" -- Kooks Custom Headers' acquisition of a

1 federal trademark registration for KOOKS, and denies any suggestion that Kooks Custom
2
3 Headers did not have common law rights to KOOKS prior to its federal trademark registration.

4
5 3. Kooks Custom Headers is without knowledge or information sufficient to form a
6
7 belief as to the truth of the allegations in Paragraph 3 of the Complaint, and therefore denies the
8
9 same.

10
11 **II. JURISDICTION AND VENUE**

12
13 4. Denied.

14
15 5. Denied.

16
17 6. Denied.

18
19 7. Denied.

20
21 **III. PARTIES**

22
23 8. Admitted.

24
25 9. Admitted.

26
27 **IV. FACTS**

28
29 10. Admitted.

30
31 11. Admitted.

32
33 12. Kooks Custom Headers is without knowledge or information sufficient to form a
34
35 belief as to the truth of the allegations in Paragraph 12 of the Complaint, and therefore denies the
36
37 same.

38
39 13. Denied.

40
41 14. Admitted.

42
43 15. Admitted.

44
45 16. Kooks Custom Headers admits that when it initiated an administrative proceeding
46
47 with the World Intellectual Property Organization concerning the Domain Name, Kooks Custom
48
49 Headers represented that it is "a domestic business corporation incorporated in 1996 under the
50
51 laws of the State of New York". Kooks Custom Headers denies any suggestion that such an

1 assertion was inaccurate or that Kooks Custom Headers' predecessors did not have rights to
2
3 KOOKS prior to its Kooks Custom Headers incorporation.

4
5 17. Kooks Custom Headers admits that "Kooks Custom Headers, Inc." did not exist in
6
7 1962, and denies the remaining allegations of Paragraph 17.

8
9 18. Admitted.

10
11 19. Kooks Custom Headers admits that as a result of its initiation of administrative
12
13 proceedings against Global DNS with respect to the Domain Name, the Domain Name registrar,
14
15 Tucows Inc., has prevented Global DNS from transferring the Domain Name to a third party, and
16
17 denies that the Domain Name has been disabled by "locking" it.

18
19 20. Paragraph 20 contains legal conclusions to which no answer is required.

20
21 21. Kooks Custom Headers is without knowledge or information sufficient to form a
22
23 belief as to the truth of the allegations in Paragraph 21 of the Complaint, and therefore denies the
24
25 same.

26
27 **V. First Cause of Action**
28 **Declaratory Relief – 28 U.S.C. § 2201**
29 **No Violation of ACPA**

30
31 22. Kooks Custom Headers incorporates by reference paragraphs 1-21 of this Answer
32
33 as if fully set forth herein.

34
35 23. Paragraph 23 contains legal conclusions to which no answer is required. To the
36
37 extent an answer is required, Kooks Custom Headers denies the allegations of Paragraph 23.

38
39 24. Paragraph 24 contains legal conclusions to which no answer is required. To the
40
41 extent an answer is required, Kooks Custom Headers denies the allegations of Paragraph 24.

42
43 25. Denied.

44
45 26. Denied.

46
47 27. Denied.

48
49 28. Denied.

**VI. Second Cause of Action
Declaratory Relief – 28 U.S.C. § 2201
No Violation of Lanham Act**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

29. Kooks Custom Headers incorporates by reference paragraphs 1-28 of this Answer as if fully set forth herein.

30. Paragraph 30 contains legal conclusions to which no answer is required. To the extent an answer is required, Kooks Custom Headers denies the allegations of Paragraph 30.

31. Paragraph 31 contains legal conclusions to which no answer is required. To the extent an answer is required, Kooks Custom Headers denies the allegations of Paragraph 31.

32. Denied.

33. Denied.

34. Denied.

**VII. Third Cause of Action
Cancellation of Trademark Registration No. 2,475,925
For Fraud on the PTO**

35. Kooks Custom Headers incorporates by reference paragraphs 1-34 of this Answer as if fully set forth herein.

36. Denied.

37. Admitted.

38. Kooks Custom Headers admits that its Complaint filed with the World Intellectual Property Organization indicates Kooks Custom Headers was incorporated in 1996 under the laws of the State of New York, and denies any suggestion that such an assertion was inaccurate or that Kooks Custom Headers' predecessors did not have rights to KOOKS prior to its Kooks Custom Headers incorporation.

39. Denied.

40. Denied.

41. Paragraph 41 contains legal conclusions to which no answer is required. To the extent an answer is required, Kooks Custom Headers is without knowledge or information

1 sufficient to form a belief as to the truth of the allegations in Paragraph 41 of the Complaint, and
2 therefore denies the same.
3

4 42. Admitted.

5 43. Denied.
6

7 44. Denied.
8

9 45. Paragraph 45 is a request for relief, to which no answer is required. To the extent
10 an answer is required, Kooks Custom Headers denies that Plaintiff is entitled to such relief.
11

12 **VIII. RELIEF REQUESTED**

13 46. Kooks Custom Headers denies that Plaintiff is entitled to any of the relief
14 requested in Paragraphs 1-7 of "Relief Requested."
15

16 **IX. KOOKS CUSTOM HEADERS AFFIRMATIVE DEFENSES**

17 As separate affirmative defenses to the COMPLAINT, on the grounds that such defenses
18 are likely to have evidentiary support after a reasonable opportunity for further investigation or
19 discovery, Kooks Custom Headers further allege as follows:
20

21 **First Affirmative Defense**

22 47. The Complaint fails to state any claim against Kooks Custom Headers upon
23 which relief can be granted.
24

25 **Second Affirmative Defense**

26 48. The Court lacks subject matter jurisdiction over the counts in the Complaint.
27

28 **Third Affirmative Defense**

29 49. The Court lacks personal jurisdiction over Kooks Custom Headers.
30

31 **Fourth Affirmative Defense**

32 50. Plaintiffs' claims are barred in whole or in part by equitable principles, including
33 waiver, fraud, unclean hands, and/or estoppel.
34

Additional Affirmative Defenses Upon Discovery

1
2
3 51. Kooks Custom Headers reserves the right to assert any and all additional
4 affirmative defenses as may be determined during the course of discovery.
5

6
7 **KOOKS CUSTOM HEADERS PRAYER FOR RELIEF**

8 WHEREFORE, Kooks Custom Headers requests the following relief:
9

10 A. Dismissal of Plaintiff's claims in their entirety with prejudice;
11

12 B. That Kooks Custom Headers be awarded its costs, disbursements, and attorneys'
13 fees in this action;
14

15 C. That Kooks Custom Headers be awarded such other and further relief as this
16 Court may deem just and proper.
17
18
19

20
21 DATED: March 11, 2008

s/ William C. Rava

William C. Rava, WSBA No. 29948
WRava@perkinscoie.com
Breena M. Roos, WSBA No. 34501
BROos@perkinscoie.com
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000
Attorneys for Defendant
KOOKS CUSTOM HEADERS, INC.

CERTIFICATE OF SERVICE

I certify that on March 11, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record for plaintiff.

I certify under penalty of perjury that the foregoing is true and correct.

DATED: March 11, 2008.

s/ William C. Rava

William C. Rava, WSBA No. 29948

WRava@perkinscoie.com

Perkins Coie LLP

1201 Third Avenue, Suite 4800

Seattle, WA 98101-3099

Telephone: 206.359.8000

Facsimile: 206.359.9000

Attorneys for Defendant

KOOKS CUSTOM HEADERS, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51