

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:07-cv-00347-D

LULU ENTERPRISES, INC.,

Plaintiff,

vs.

**ANSWER OF  
DEFENDANT HULU, LLC**

HULU, LLC, f/k/a N-F NEWSITE, LLC,

*et al.*,

Defendants.

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Defendant Hulu, LLC, formerly known as N-F Newsite, LLC, hereby answers the complaint filed by Lulu Enterprises, Inc. as follows:

**FIRST DEFENSE**

The Complaint fails to state a claim for relief and should be dismissed.

**SECOND DEFENSE**

Plaintiff's claims are barred as there is no likelihood of confusion between the parties' marks as they are actually used.

**THIRD DEFENSE**

Plaintiff's claims are barred in whole or in part by the doctrine of estoppel.

**FOURTH DEFENSE**

Defendant denies any allegations not expressly admitted and responds to the enumerated paragraphs of the Complaint as follows:

1. Defendant admits that the Complaint purports to state claims under 15 U.S.C. § 1125(a), (d), N.C. Gen. Stat. § 75-1.1, and the common law, but denies that it does so and denies any remaining allegations contained in paragraph 1.

2. Defendant admits that it announced its plans to use its HULU mark in connection with a website featuring premium video content. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 2 relating to Plaintiff's use of its "Lulu marks" and therefore Defendant denies those allegations. Defendant denies the remaining allegations contained in paragraph 2.

3. Defendant admits that the Complaint purports to state claims under Sections 43(a) and 43(d) of the Lanham Act, but denies that it does so and denies the remaining allegations contained in paragraph 3.

4. In response to paragraph 4 of the Complaint, the allegations contain conclusions of law to which no response is required. To the extent a response is required, Defendant is submitting to and not challenging the jurisdiction of this Court and the venue. Defendant admits that it is using the HULU name and mark and has filed an application with the United States Patent and Trademark Office for federal registration of the HULU mark and other associated marks. Except as admitted, Defendant denies the allegations contained in paragraph 4.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 5 and therefore Defendant denies those allegations.

6. Defendant admits that it is a Delaware limited liability company, with a business address at 12312 West Olympic Boulevard, Los Angeles, California 90064. Except as admitted, Defendant denies the allegations contained in paragraph 6.

7. Defendant denies that Lulu's marks are distinctive. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 7 and therefore Defendant denies those allegations.

8. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 8 and therefore Defendant denies those allegations.

9. Defendant denies that Lulu's marks are distinctive and well-known. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 9 and therefore Defendant denies those allegations.

10. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10 and therefore Defendant denies those allegations.

11. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 11 and therefore Defendant denies those allegations.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 12 and therefore Defendant denies those allegations.

13. Defendant denies the allegations contained in paragraph 13.

14. Defendant admits that on or about August 29, 2007 it announced its plans to use the marks HULU and HULU.COM in connection with a website featuring premium video content. Defendant denies the remaining allegations contained in paragraph 14.

15. Defendant admits that it filed an intent-to-use trademark application for its HULU mark and states that such application is the best evidence of its contents. Defendant denies the remaining allegations contained in paragraph 15.

16. Defendant admits that it intends to provide premium video content over the internet. Defendant denies the remaining allegations contained in paragraph 16.

17. Defendant admits the allegations contained in paragraph 17.

18. Defendant denies the allegations contained in paragraph 18.

19. Defendant denies the allegations contained in paragraph 19.

20. Defendant denies the allegations contained in paragraph 20.

**ANSWER TO COUNT I**

21. Defendant repeats and incorporates by reference the responses contained in paragraphs 1 through 20 as if fully set forth herein.

22. Defendant denies the allegations contained in paragraph 22.

23. Defendant denies the allegations contained in paragraph 23.

24. Defendant denies the allegations contained in paragraph 24.

25. Defendant denies the allegations contained in paragraph 25.

**ANSWER TO COUNT II**

26. Defendant repeats and incorporates by reference the responses contained in paragraphs 1 through 25 as if fully set forth herein.

27. Defendant denies the allegations contained in paragraph 27.

28. Defendant denies the allegations contained in paragraph 28.

29. Defendant denies the allegations contained in paragraph 29.

30. Defendant denies the allegations contained in paragraph 30.

**ANSWER TO COUNT III**

31. Defendant repeats and incorporates by reference the responses contained in paragraphs 1 through 30 as if fully set forth herein.

32. Defendant denies the allegations contained in paragraph 32.

33. Defendant denies the allegations contained in paragraph 33.

34. Defendant denies the allegations contained in paragraph 34.

**ANSWER TO COUNT IV**

35. Defendant repeats and incorporates by reference the responses contained in paragraphs 1 through 34 as if fully set forth herein.

36. Defendant denies the allegations contained in paragraph 36.

37. Defendant denies the allegations contained in paragraph 37.

38. Defendant denies the allegations contained in paragraph 38.

39. Defendant denies the allegations contained in paragraph 39.

WHEREFORE, Defendant Hulu, LLC requests that the Court:

1. Dismiss the Complaint;
2. Enter an Order that the Plaintiff have and recover nothing from Defendant;
3. Award Defendant its costs and attorneys' fees as allowed by law; and
4. Award Defendant such other relief that the Court deems just and proper.

Respectfully submitted, this 1st day of October, 2007.

/s/ Hayden J. Silver, III

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*Counsel for Defendant Hulu, LLC*

**CERTIFICATE OF SERVICE**

This is to certify that on this date the foregoing was electronically filed with the Clerk of the Court using the CM/ECF System which will send notice to the following CM/ECF participants:

Leslie C. O'Toole  
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This the 1st day of October, 2007.

/s/ Hayden J. Silver, III  
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