

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

i.think inc.,

Plaintiff,

v.

MINEKEY, INC.

Defendant.

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CIVIL ACTION NO. 3-08CV0163-P

DEFENDANT’S AMENDED ANSWER

TO THE HONORABLE COURT:

Defendant Minekey, Inc. (“Minekey”) asserts the following defenses to Plaintiff’s Amended Complaint (“Amended Complaint”), filed July 2, 2008, as follows:

FIRST DEFENSE

The court lacks personal jurisdiction over Minekey.

SECOND DEFENSE

Plaintiff has failed to state a claim for which relief can be granted.

Subject to the aforementioned defenses, Minekey answers the Amended Complaint as follows:

1. Minekey admits the averments in paragraph 1 of the Amended Complaint.
2. Minekey is a Delaware corporation and admits the remaining averments in paragraph 2 of the Amended Complaint.
3. Minekey admits the averments in paragraph 3 of the Amended Complaint.

4. Minekey admits that this court has subject matter jurisdiction and states that the court's April 30, 2008 order speaks for itself.

5. Minekey admits that venue is proper in this district and denies the remaining averments in paragraph 5 of the Amended Complaint.

6. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 6 of the Amended Complaint, and therefore denies same.

7. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 7 of the Amended Complaint, and therefore denies same.

8. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 8 of the Amended Complaint, and therefore denies same.

9. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 9 of the Amended Complaint, and therefore denies same.

10. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 10 of the Amended Complaint, and therefore denies same.

11. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 11 of the Amended Complaint, and therefore denies same.

12. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in the first sentence of paragraph 12 of the Amended Complaint, and therefore denies same. Minekey admits that it operates the domain names "ithink.com" and "ithink.net."

13. Minekey admits that it owns the ithink domains and that it acquired them from Internet Unlimited. Minekey is without knowledge or information sufficient to form a belief as

to the truth of the remaining averments in paragraph 13 of the Amended Complaint, and therefore denies same.

14. Minekey denies the averments in paragraph 14 of the Amended Complaint.

15. Minekey admits that it uses the ithink domains on the Internet, but denies the remaining averments in paragraph 15 of the Amended Complaint.

16. Minekey admits the averments in paragraph 16 of the Amended Complaint.

17. Minekey admits that it uses the Internet, denies that it conducts surveys or polls, and is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 17 of the Amended Complaint, and therefore denies same.

18. Minekey denies the averments in paragraph 18 of the Amended Complaint.

19. Minekey denies that Andra owns the ithink domains. Minekey admits that it owns the ithink domains. Minekey is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 19 of the Amended Complaint, and therefore denies same.

20. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 20 of the Amended Complaint, and therefore denies same.

21. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 21 of the Amended Complaint, and therefore denies same.

22. Minekey denies the averments in paragraph 22 of the Amended Complaint.

23. Minekey denies the averments in paragraph 23 of the Amended Complaint.

24. Minekey denies the averments in paragraph 24 of the Amended Complaint.

25. Minekey denies the averment in the first sentence of paragraph 25 of the Amended Complaint. Minekey is without knowledge or information sufficient to form a belief

as to the truth of the averment in the second sentence of paragraph 25 of the Amended Complaint, and therefore denies same.

26. Minekey denies the averment in the first sentence of paragraph 26 of the Amended Complaint. Minekey is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 26 of the Amended Complaint, and therefore denies same.

27. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 27 of the Amended Complaint, and therefore denies same.

28. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 28 of the Amended Complaint, and therefore denies same.

29. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 29 of the Amended Complaint, and therefore denies same.

30. Minekey denies the averment in paragraph 30 of the Amended Complaint.

31. Minekey incorporates by reference its responses to paragraphs 1-30 of the Amended Complaint.

32. Minekey denies the averment in paragraph 32 of the Amended Complaint.

33. Minekey denies the averments in paragraph 33 of the Amended Complaint.

34. Minekey denies the averments in paragraph 34 of the Amended Complaint.

35. Minekey admits that prevention of consumer confusion serves the public interest and legitimate business interests, but denies that any such confusion exists in this case. Minekey denies any remaining averments in paragraph 35 of the Amended Complaint.

36. Minekey incorporates by reference its responses to paragraphs 1-35 of the Amended Complaint.

37. Minekey denies that it uses its marks in Texas. Minekey is without knowledge or information sufficient to form a belief as to the truth of the remaining averment in paragraph 37 of the Amended Complaint, and therefore denies same.

38. Minekey denies the averments in paragraph 38 of the Amended Complaint.

39. Minekey denies the averments in paragraph 39 of the Amended Complaint.

40. Minekey denies the averments in paragraph 40 of the Amended Complaint.

41. Minekey incorporates by reference its responses to paragraphs 1-40 of the Amended Complaint.

42. Minekey admits the averment in paragraph 42 of the Amended Complaint.

43. Minekey denies the averments in paragraph 43 of the Amended Complaint.

44. Minekey denies the averment in paragraph 44 of the Amended Complaint.

45. Minekey incorporates by reference its responses to paragraphs 1-44 of the Amended Complaint.

46. Minekey denies the averment in paragraph 46 of the Amended Complaint.

47. Minekey denies the averments in paragraph 47 of the Amended Complaint.

48. Minekey denies the averment in paragraph 48 of the Amended Complaint.

49. Minekey incorporates by reference its responses to paragraphs 1-48 of the Amended Complaint.

50. Minekey denies the averment in paragraph 50 of the Amended Complaint.

51. Minekey denies the averments in paragraph 51 of the Amended Complaint.

52. Minekey denies the averments in paragraph 52 of the Amended Complaint.

53. Minekey denies the averments in paragraph 53 of the Amended Complaint.

54. Minekey denies the averment in paragraph 54 of the Amended Complaint.

55. Minekey incorporates by reference its responses to paragraphs 1-54 of the Amended Complaint.

56. Minekey denies the averment contained in 56 of the Amended Complaint.

57. Minekey denies the averments in paragraph 57 of the Amended Complaint.

58. Minekey denies the averments in paragraph 58 of the Amended Complaint.

59. Minekey denies the averment contained in 59 of the Amended Complaint.

60. Minekey incorporates by reference its responses to paragraphs 1-59 of the Amended Complaint.

61. Minekey denies the averments in paragraph 61 of the Amended Complaint.

62. Minekey denies the averment in paragraph 62 of the Amended Complaint.

63. Minekey denies that plaintiff is entitled to any relief. The remaining paragraphs of the Amended Complaint do not contain any factual averments, and thus no response is required. To the extent a response is required, Minekey denies any such averments.

ADDITIONAL DEFENSE

Plaintiff's claims are barred by the doctrine of unclean hands and Plaintiff's own inequitable conduct.

WHEREFORE, Minekey, Inc. prays that Plaintiff take nothing by its claims, and that Minekey, Inc. be dismissed from this action and recover its costs and reasonable attorneys' fees.

Respectfully Submitted,

/s/ Craig W. Weinlein

Craig W. Weinlein

State Bar No. 21095500

Barry R. Bell

State Bar No. 02068550

Prescott Smith

State Bar No. 24013534

Omar Kilany

State Bar No. 24026974

**CARRINGTON, COLEMAN, SLOMAN &
BLUMENTHAL, L.L.P.**

901 Main Street, Suite 5500

Dallas, Texas 75202

Telephone: (214) 855-3000

Facsimile: (214) 855-1333

Attorneys for Defendant Minekey, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record in the above cause in accordance with Rule 5, Federal Rules of Civil Procedure and Local Rule 5.1(d) on this 17th day of July, 2008.

/s/ Craig W. Weinlein