

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

i.think inc.,

Plaintiff,

v.

MINEKEY, INC.;
DELIP ANDRA; and
INTERNET UNLIMITED, LLC

Defendants.

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CIVIL ACTION NO. 3-08CV0163-P

DEFENDANT MINEKEY INC.’S ORIGINAL ANSWER

TO THE HONORABLE COURT:

Defendant Minekey, Inc. (“Minekey”) asserts the following defenses to Plaintiff’s Original Petition and Application for Temporary and Permanent Restraining Order (“petition”), 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 Plaintiff’s petition as follows:

1. Minekey is without knowledge or sufficient information to form a belief as to the truth of the averments contained in paragraph 1 of the petition, and therefore denies same.
2. Minekey denies the averment that it is a California corporation, but admits the remaining averments contained in paragraph 2 of the petition.

3. Minekey admits the averments contained in paragraph 3 of the petition.
4. Minekey is without knowledge or sufficient information to form a belief as to the truth of the averments contained in paragraph 4 of the petition, and therefore denies same.
5. Minekey admits that the damages sought by ithink inc. exceed the minimum jurisdictional limits of the Court, but denies the remaining averments contained in paragraph 5 of the petition.
6. Minekey denies the averments contained in paragraph 6 of the petition.
7. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 7 of the petition, and therefore denies same.
8. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 8 of the petition, and therefore denies same.
9. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 9 of the petition, and therefore denies same.
10. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 10 of the petition, and therefore denies same.
11. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 11 of the petition, and therefore denies same.
12. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments concerning Plaintiff's discovery of the website "ithink." Minekey admits that the domain names "ithink.com" and "ithink.net" are operated by Minekey, and admits that it acquired those domains from Defendant IU.

13. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 13 of the petition, and therefore denies same.

14. Minekey denies the averments contained in paragraph 15 of the petition.

15. Minekey denies the averments contained in paragraph 15 of the petition.

16. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 16 of the petition, and therefore denies same.

17. Minekey denies that Andra owns the ithink domains, but 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 contained in paragraph 17 of the petition, and therefore denies same.

18. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 18 of the petition, and therefore denies same.

19. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 19 of the petition, and therefore denies same.

20. Minekey denies the averments contained in paragraph 20 of the petition.

21. Minekey denies the averments contained in paragraph 21 of the petition.

22. Minekey denies the averments contained in paragraph 22 of the petition.

23. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 23 of the petition, and therefore denies same.

24. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 24 of the petition, and therefore denies same.

25. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 25 of the petition, and therefore denies same.

26. Minekey denies the averment that itthink is a distinctive name in the field of online surveys. Minekey is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 26 of the petition, and therefore denies same.

27. Minekey denies the averments that itthink inc. is a strong mark. Minekey is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 27 of the petition, and therefore denies same.

28. Minekey incorporates by reference its responses to paragraphs 1-27 of the petition.

29. Minekey denies the averment that the service mark itthink inc. is distinctive. Minekey is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 29 of the petition, and therefore denies same.

30. Minekey denies the averments contained in paragraph 30 of the petition.

31. Minekey denies the averments contained in paragraph 31 of the petition.

32. Minekey incorporates by reference its responses to paragraphs 1-31 of the petition.

33. Minekey denies the averments contained in paragraph 33 of the petition.

34. Minekey denies the averments contained in paragraph 34 of the petition.

35. Minekey denies the averments contained in paragraph 35 of the petition.

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

37. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 37 of the petition, and therefore denies same.

38. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 38 of the petition, and therefore denies same.

39. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 39 of the petition, and therefore denies same.

40. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 40 of the petition, and therefore denies same.

41. Minekey admits the averment that Defendant IU sold the domains to Minekey, and denies the remaining averments in paragraph 41 of the petition.

42. Minekey is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 42 of the petition, and therefore denies same.

43. Minekey denies the averments in paragraph 43 of the petition.

44. Minekey incorporates by reference its responses to paragraphs 1-43 of the petition.

45. Minekey denies the averments contained in paragraph 45 of the petition.

46. Minekey denies the averments contained in paragraph 46 of the petition.

47. Minekey denies the averments contained in paragraph 47 of the petition.

48. Paragraph 48 of the petition does not contain any factual averments, and thus no response is required. To the extent a response is required, Minekey denies the averments in paragraph 48.

49. The remaining paragraphs of the petition do not contain any factual averments, and thus no response is required. To the extent a response is required, Minekey denies any such averments.

AFFIRMATIVE DEFENSE

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

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

Respectfully Submitted,

/s/ Craig W. Weinlein

Craig W. Weinlein

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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 19th day of February, 2008.

/s/ Craig W. Weinlein _____