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6 Attorneys for Plaintiff

7 **United States District Court**
8 **For The District Of Arizona**

9 Heidi Powell, an Arizona resident,

10 Plaintiff,

11 v.

12 Kent Powell and Heidi Powell, husband
13 and wife,

14 Defendants.

Case No. 2:16-cv-02386-SRB

Amended Answer to Counterclaim

(Assigned to the Hon. Susan R. Bolton)

15
16 For her Answer to the Counterclaim (Doc. 13), Plaintiff Heidi Powell hereby
17 responds as follows:

18 1. Plaintiff denies the allegations contained in Paragraph 1 of the
19 Counterclaim.

20 2. Plaintiff admits only that Plaintiff changed her name to Heidi Powell in
21 2010 and that she has appeared on reality television but lacks sufficient information to
22 admit or deny the remaining allegations in Paragraph 2 of the Counterclaim and
23 therefore denies the same.

24 3. Plaintiff denies the allegations contained in Paragraph 3 of the
25 Counterclaim.

26

1 4. Plaintiff denies the allegations contained in Paragraph 4 of the
2 Counterclaim.

3 5. Plaintiff denies the allegations contained in Paragraph 5 of the
4 Counterclaim.

5 6. Plaintiff denies the allegations contained in Paragraph 6 of the
6 Counterclaim.

7 7. Plaintiff admits the allegations contained in Paragraph 7 of the
8 Counterclaim.

9 8. Plaintiff admits the allegations contained in Paragraph 8 of the
10 Counterclaim.

11 9. Plaintiff admits the allegations contained in Paragraph 9 of the
12 Counterclaim.

13 10. Plaintiff lacks sufficient information to admit or deny the allegations in
14 Paragraph 10 of the Counterclaim and therefore denies the same.

15 11. Plaintiff denies the allegations contained in Paragraph 11 of the
16 Counterclaim, and affirmatively allege that Kent Powell registered the domain name.

17 12. Plaintiff lacks sufficient information to admit or deny the allegations in
18 Paragraph 12 of the Counterclaim and therefore denies the same.

19 13. Plaintiff lacks sufficient information to admit or deny the allegations in
20 Paragraph 13 of the Counterclaim and therefore denies the same.

21 14. Plaintiff denies the allegations contained in Paragraph 14 of the
22 Counterclaim.

23 15. Plaintiff denies the allegations contained in Paragraph 15 of the
24 Counterclaim.

25 16. Plaintiff admits the allegations contained in Paragraph 16 of the
26 Counterclaim.

1 17. Plaintiff admits the allegations contained in Paragraph 17 of the
2 Counterclaim.

3 18. Plaintiff admits the allegations contained in Paragraph 17 of the
4 Counterclaim.

5 19. Plaintiff lacks sufficient information to admit or deny the allegations in
6 Paragraph 19 of the Counterclaim and therefore denies the same.

7 20. Plaintiff denies the allegations contained in Paragraph 20 of the
8 Counterclaim.

9 21. Plaintiff denies the allegations contained in Paragraph 21 of the
10 Counterclaim.

11 22. Plaintiff admits only that she was born in 1982 and lacks sufficient
12 information to admit or deny the remaining allegations in Paragraph 22 of the
13 Counterclaim and therefore denies the same.

14 23. Plaintiff admits the allegations contained in Paragraph 23 of the
15 Counterclaim.

16 24. Plaintiff admits the allegations contained in Paragraph 24 of the
17 Counterclaim.

18 25. Plaintiff admits the allegations contained in Paragraph 25 of the
19 Counterclaim.

20 26. Plaintiff admits the allegations contained in Paragraph 26 of the
21 Counterclaim.

22 27. Plaintiff admits the allegations contained in Paragraph 27 of the
23 Counterclaim.

24 28. Plaintiff admits the allegations contained in Paragraph 28 of the
25 Counterclaim.

26

1 29. Plaintiff admits the allegations contained in Paragraph 29 of the
2 Counterclaim.

3 30. Plaintiff denies the allegations contained in Paragraph 30 of the
4 Counterclaim.

5 31. Plaintiff denies the allegations contained in Paragraph 31 of the
6 Counterclaim.

7 32. Plaintiff repeats and realleges each of her responses as if fully set forth
8 herein.

9 33. Plaintiff denies the allegations contained in Paragraph 33 of the
10 Counterclaim.

11 34. Plaintiff denies the allegations contained in Paragraph 34 of the
12 Counterclaim.

13 35. Plaintiff denies the allegations contained in Paragraph 35 of the
14 Counterclaim.

15 36. Plaintiff denies the allegations contained in Paragraph 36 of the
16 Counterclaim.

17 37. Plaintiff denies the allegations contained in Paragraph 37 of the
18 Counterclaim

19 38. Plaintiff repeats and realleges each of her responses as if fully set forth
20 herein.

21 39. Plaintiff denies the allegations contained in Paragraph 39 of the
22 Counterclaim.

23 40. Plaintiff admits the allegations contained in Paragraph 40 of the
24 Counterclaim, and affirmatively allege that Plaintiff had rights in the trademark when
25 the Defendants re-registered the domain name.

26

1 41. Plaintiff denies the allegations contained in Paragraph 41 of the
2 Counterclaim.

3 42. Plaintiff denies the allegations contained in Paragraph 42 of the
4 Counterclaim.

5 43. Plaintiff denies the allegations contained in Paragraph 43 of the
6 Counterclaim.

7 44. Plaintiff denies the allegations contained in Paragraph 44 of the
8 Counterclaim.

9 45. Plaintiff denies the allegations contained in Paragraph 45 of the
10 Counterclaim.

11 46. Plaintiff denies the allegations contained in Paragraph 46 of the
12 Counterclaim.

13 47. Plaintiff denies the allegations contained in Paragraph 47 of the
14 Counterclaim.

15 48. Plaintiff denies the allegations contained in Paragraph 48 of the
16 Counterclaim.

17 49. Plaintiff denies the allegations contained in Paragraph 49 of the
18 Counterclaim.

19 **AFFIRMATIVE DEFENSES**

20 For her affirmative defenses, Plaintiff alleges as follows:

- 21 A. Failure to state a claim upon which relief may be granted;
- 22 B. Defendant lacks standing because she does not own the domain
23 name at issue;
- 24 C. Defendants reserved the domain name at issue in bad faith;
- 25 D. The parties have an enforceable agreement to mutually dismiss the
26 case;

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1 E. Defendants' claims are barred by the doctrine estoppel, laches,
2 and/or waiver;

3 F. Defendants' claims are barred by the doctrine of unclean hands;

4 G. Defendants have failed to mitigate damages;

5 H. Defendants lack any economic damages;

6 I. Defendants have committed fraud; and

7 J. Plaintiff reserves the right to assert any other affirmative defense if
8 facts should be revealed during the course of discovery which would support assertion
9 of such defenses.

10 WHEREFORE, Plaintiff requests that judgment be entered in her favor and
11 against Defendants as to the Counterclaims, with Defendants to take nothing and
12 Plaintiff to recover her reasonable fees and costs incurred defending the Counterclaims
13 in accordance with the Lanham Act and all other applicable laws.

14
15 DATED this 29th day of September, 2016.

16
17 **Jaburg & Wilk, P.C.**

18 /s/ Maria Crimi Speth
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Certificate of Service

I hereby certify that on September 29, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing, and for transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

David E. Weslow
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/s/Debra Gower