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17 **UNITED STATES DISTRICT COURT**
 18 **SOUTHERN DISTRICT OF CALIFORNIA**
 19

20 ERIC HANSCOM,

21 Plaintiff,

22 v.

23 FEDERAL AVIATION
 24 ADMINISTRATION,

25 Defendant.
 26
 27
 28

Case No.: 23cv1550-JO(MSB)

ANSWER TO COMPLAINT FOR
 DAMAGES AND INJUNCTIVE
 RELIEF

1 Pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure, the Federal
2 Aviation Administration (“Defendant”) hereby answers the allegations made in each of the
3 numbered paragraphs of Plaintiff’s Complaint filed on August 23, 2023. Each numbered
4 paragraph 1 to 62 below responds to the corresponding numbered paragraph of the
5 Complaint. Upon current information and belief, all allegations of the Complaint are denied
6 except to the extent expressly admitted below.

7
8 **JURISDICTION AND VENUE**

9 1. The allegations contained in paragraph 1 are Plaintiff’s characterization of
10 their case, or constitute conclusions of law, to which no answer is required.

11 2. The allegations contained in paragraph 2 are Plaintiff’s characterization of the
12 basis of this Court’s jurisdiction, or constitute conclusions of law, to which no answer is
13 required. To the extent required, Defendant admits that 15 U.S.C. § 1121(a) and 28 U.S.C.
14 §§ 1331, and 1338(a) and (b) confer jurisdiction upon district courts to hear trademark
15 infringement actions arising under 15 U.S.C. § 1114.

16 3. The allegations contained in paragraph 3 are Plaintiff’s characterization of the
17 basis of this Court’s personal jurisdiction over Defendant to which no response is required.
18 To the extent a response is required, Defendant denies it has conducted commercial
19 activities in this Judicial District and denies that it has committed any acts which constitute
20 infringement of Plaintiff’s alleged trademarks or any other tortious conduct in this Judicial
21 District or elsewhere.

22 4. The allegations contained in paragraph 4 are Plaintiff’s characterization of the
23 basis of venue in this Judicial District to which no response is required. To the extent a
24 response is required, Defendant admits that venue lies, among other locations, in this
25 Judicial District.
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PARTIES

1
2 5. The allegations in paragraph 5 are Plaintiff's characterizations of itself, to
3 which no response is required. To the extent required, Defendant is without knowledge or
4 information sufficient to form a belief as to the truth of the allegations and on that basis
5 denies the same.

6 6. Defendant admits the allegations in paragraph 6 of the Complaint.

7
8 7. The allegations in paragraph 7 are Plaintiff's characterization of its case to
9 which no answer is required or constitute conclusions of law to which no answer is
10 required. To the extent required, Defendant admits that that 15 U.S.C. § 1121(a) and 28
11 U.S.C. §§ 1331, 1338 confer jurisdiction with district courts to hear trademark
12 infringement actions arising under 15 U.S.C. § 1114. Defendant further admits that it has
13 substantial contacts within the Southern District of California. Defendant denies the
14 remainder of the allegations for lack of knowledge or information sufficient to form a belief
15 as to their truth.

ALLEGATIONS OF FACT

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17 8. With respect to paragraph 8 of the Complaint, Defendant is without
18 knowledge or information sufficient to form a belief as to the truth of allegations and on
19 that basis denies the same.

20
21 9. With respect to paragraph 9 of the Complaint, Defendant admits that the
22 United States Patent and Trademark Office registered the marks, on the registration dates,
23 and with the registration numbers, set forth in the chart below.

| United States Trademark Registration Number | Mark | Registration Date |
|--|------------|--------------------|
| 4729250 | DRONE ZONE | April 28, 2015 |
| 4819640 | DRONE ZONE | September 22, 2015 |

| | | | |
|----|---------|-------------------------------|--------------------|
| 1 | 4821380 | DRONE ZONE [in red with a | September 29, 2015 |
| 2 | | red, stylized drone under the | |
| 3 | | “D”] | |
| 4 | 4870770 | DRONE ZONE | December 15, 2015 |
| 5 | 4870180 | DRONE ZONE | December 15, 2015 |
| 6 | 4870659 | DRONE ZONE | December 15, 2015 |
| 7 | 4870178 | DRONE ZONE | December 15, 2015 |
| 8 | 4970356 | DRONE ZONE | May 31, 2016 |
| 9 | 7016319 | DRONE ZONE [all caps in | April 4, 2023 |
| 10 | | red centered in a stylized | |
| 11 | | round world consisting of | |
| 12 | | black and white] | |

13
14 Defendant denies the remainder of the allegations for lack of knowledge or information
15 sufficient to form a belief as to their truth. Defendant further avers that one or more of the
16 registrations disclaim any exclusive right to use “DRONE” apart from the registered marks.

17 10. With respect to paragraph 10 of the Complaint, Defendant admits that on
18 June 16, 2020, Plaintiff was a guest speaker for Defendant. Defendant is without
19 knowledge or information sufficient to form a belief as to the truth of the remaining
20 allegations set forth in this paragraph and on that basis denies the same.

21 11. With respect to paragraph 11 of the Complaint, Defendant is without
22 knowledge or information sufficient to form a belief as to the truth of allegations and on
23 that basis denies the same.

24 12. With respect to paragraph 12 of the Complaint, Defendant is without
25 knowledge or information sufficient to form a belief as to the truth of allegations and on
26 that basis denies the same.
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1 13. With respect to paragraph 13 of the Complaint, Defendant is without
2 knowledge or information sufficient to form a belief as to the truth of allegations and on
3 that basis denies the same.

4 14. With respect to paragraph 14 of the Complaint, Defendant is without
5 knowledge or information sufficient to form a belief as to the truth of allegations and on
6 that basis denies the same.

7 15. With respect to paragraph 15 of the Complaint, Defendant is without
8 knowledge or information sufficient to form a belief as to the truth of allegations and on
9 that basis denies the same.

10 16. With respect to paragraph 16 of the Complaint, Defendant is without
11 knowledge or information sufficient to form a belief as to the truth of allegations and on
12 that basis denies the same.

13 17. With respect to paragraph 17 of the Complaint, Defendant is without
14 knowledge or information sufficient to form a belief as to the truth of allegations and on
15 that basis denies the same.

16 18. With respect to paragraph 18 of the Complaint, Defendant is without
17 knowledge or information sufficient to form a belief as to the truth of allegations and on
18 that basis denies the same.

19 19. With respect to paragraph 19 of the Complaint, Defendant is without
20 knowledge or information sufficient to form a belief as to the truth of allegations and on
21 that basis denies the same.

22 20. Defendant admits that FAADroneZone is a public-facing United States
23 government-owned web portal that provides access to the Defendant's Unmanned Aircraft
24 Management System Environment (UASME) for managing regulatory drone services and
25 for allowing for small Unmanned Aircraft System (sUAS) owners or operators to register
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1 their sUAS. Defendant admits that it gives periodic trainings to the public and other
2 interested users in registering drones including use of FAADroneZone.

3 21. Defendant admits that it operates the FAADroneZone web portal for
4 managing regulatory drone services and for allowing small Unmanned Aircraft System
5 (sUAS) owners or operators to register their sUAS and that Exhibit B to Plaintiff's
6 Complaint appears to depict a point-in-time excerpt of the FAA's FAADroneZone
7 registration portal website.

8 22. Defendant admits the allegations in paragraph 22.

9 23. Defendant denies it operates the private Facebook group "FAA
10 DroneZone/LAANC Discussions Group." Defendant admits that it operates and posts on
11 behalf of the agency using the FAA's Facebook page "FAADroneZone"
12 (<https://www.facebook.com/FAADroneZone?mibextid=LQQJ4d>) to provide Facebook
13 users "up-to-date information on safety tips, news and other updates." Defendant admits
14 that Exhibit C to Plaintiff's Complaint appears to depict a point-in-time excerpt of the
15 landing page for the FAA's FAADroneZone Facebook page and postings made on that
16 page.
17

18 24. Defendant admits that it posts on behalf of the agency using the Twitter page
19 (<https://twitter.com/faadronezone?s=11&t=cfBjKNjO2SqNKs52gpEUNg>) to provide
20 information on safety, news and other updates and that Exhibit D to Plaintiff's Complaint
21 appears to depict a point-in-time excerpt of the FAA's FAADroneZone Twitter (now X)
22 landing page and postings thereto.
23

24 25. Defendant admits using "FAADroneZone" on its Facebook page at
25 <https://www.facebook.com/FAADroneZone?mibextid=LQQJ4d> and on its Twitter page at
26 <https://twitter.com/faadronezone?s=11&t=cfBjKNjO2SqNKs52gpEUNg>.
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1 34. Defendant admits that the United States Patent and Trademark Office
2 registered “DRONE ZONE” to Plaintiff in Registration Nos. 4729250, 4819640, 4821380,
3 4870770, 4870180, 4870659, 4870178, 4970356, and 7016319.

4 35. Defendant admits the PTO’s Trademark Status and Document Retrieval
5 database states that Sections 8 and 15 combined declarations were accepted and
6 acknowledged for Registration Nos. 4729250, 4819640, 4821380, 4870770, 4870180,
7 4870659, 4870178, and 4970356. Defendant denies any remaining allegations.

8 36. Paragraph 36 of the Complaint sets forth a legal conclusion to which no
9 response is required. To the extent a response is deemed required, the allegations of this
10 paragraph are denied.

11 37. Paragraph 37 of the Complaint sets forth a legal conclusion to which no
12 response is required. To the extent a response is deemed required, the allegations of this
13 paragraph are denied.

14 38. Paragraph 38 of the Complaint sets forth a legal conclusion to which no
15 response is required. To the extent a response is deemed required, the allegations of this
16 paragraph are denied.

17 39. Paragraph 39 of the Complaint sets forth a legal conclusion to which no
18 response is required. To the extent a response is deemed required, the allegations of this
19 paragraph are denied.

20 40. With respect to paragraph 40 of the Complaint, Defendant admits that it uses
21 “FAADroneZone” and/or “FAA DroneZone.” To the extent this paragraph sets forth legal
22 conclusions, no response is required. If a response is deemed required, the additional
23 allegations of this paragraph are denied.

24 41. Defendant admits that as of December 2017 it became aware of the following
25 United States trademark registrations: Reg. Nos. 4729250; 4819640; 4821380; 4870770;
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1 4870180; 4870659; 4870178; 4970356. Defendant lacks sufficient information to admit or
2 deny Plaintiff's prior use and ownership, and on that basis denies the remaining allegations
3 in paragraph 41 of the Complaint. Defendant denies that it has willfully or intentionally
4 violated 15 U.S.C. § 1114.

5 42. Defendant denies using the term "drone zone" as a trademark without the
6 distinguishing prefix "FAA." Defendant lacks sufficient information to admit or deny
7 whether Plaintiff previously provided to Defendant "services, including flight instruction"
8 and on that basis denies the remaining allegations in paragraph 42 of the Complaint.

9 43. With respect to paragraph 43 of the Complaint, Defendant denies that it offers
10 services under marks registered to Plaintiff. To the extent this paragraph sets forth legal
11 conclusions, no response is required. If a response is deemed required, the allegations of
12 this paragraph are denied.

13 44. Paragraph 44 of the Complaint sets forth a legal conclusion to which no
14 response is required. To the extent a response is deemed required, the allegations of this
15 paragraph are denied.

16 45. Paragraph 45 of the Complaint sets forth legal conclusions to which no
17 response is required. To the extent a response is deemed required, the allegations of this
18 paragraph are denied.

19 46. Defendant denies the allegations in paragraph 46 of the Complaint. Defendant
20 further avers that Plaintiff is not entitled to (1) any compensatory damages;
21 (2) disgorgement of profits; and/or (3) costs and attorneys' fees.

22 47. With respect to paragraph 47 of the Complaint, Defendant denies the
23 allegations contained therein, and further avers that Plaintiff is not entitled to judgment and
24 has incurred no actual damages. Defendant further avers that Plaintiff is not entitled to any
25 trebling of damages.
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SECOND CLAIM FOR RELIEF

(Alleged Unfair Competition Under Lanham Act: 15 U.S.C. § 1125(a))

48. Defendant repeats, realleges, and incorporates by reference Paragraphs 1 through 47 of this Answer as if fully set forth herein.

49. With respect to paragraph 49 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of allegations and on that basis denies the same.

50. With respect to paragraph 50 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of allegations and on that basis denies the same.

51. To the extent the allegations in paragraph 51 of the Complaint set forth a legal conclusion, no response is required. If a response is deemed required, the allegations of this paragraph are denied.

52. Defendant admits that it operates the FAADroneZone web portal for managing regulatory drone services and for allowing small Unmanned Aircraft System (sUAS) owners or operators to register their UAS. Defendant admits that it gives periodic trainings to the public and other interested users in registering drones including use of FAADroneZone. As to the remaining allegations in paragraph 52 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of allegations and on that basis denies the same.

53 Paragraph 53 of the Complaint sets forth a legal conclusion to which no response is required. To the extent a response is deemed required, the allegations of this paragraph are denied.

1 54. Paragraph 54 of the Complaint sets forth a legal conclusion to which no
2 response is required. To the extent a response is deemed required, the allegations of this
3 paragraph are denied.

4 55. Defendant denies the allegation that it provides services under marks
5 registered to Plaintiff. The remaining allegations in paragraph 55 of the Complaint set
6 forth legal conclusions to which no response is required. To the extent a response is
7 deemed required, the remaining allegations of this paragraph are denied.

8 56. Defendant admits that as of December 2017 it became aware of the following
9 United States trademark registrations: Reg. Nos. 4729250; 4819640; 4821380; 4870770;
10 4870180; 4870659; 4870178; 4970356. Defendant lacks sufficient information to admit or
11 deny Plaintiff's prior use and ownership, and on that basis denies those allegations in
12 paragraph 56 of the Complaint. The remainder of paragraph 56 of the Complaint sets forth
13 legal conclusions to which no response is required. To the extent a response is deemed
14 required, the allegations of this paragraph are denied.

15 57. Defendant admits that as of December 2017 it became aware of the following
16 United States trademark registrations: Reg. Nos. 4729250; 4819640; 4821380; 4870770;
17 4870180; 4870659; 4870178; 4970356. Defendant lacks sufficient information to admit or
18 deny Plaintiff's prior use and ownership. Defendant denies that it has willfully violated 15
19 U.S.C. § 1125(a)

20 58. With respect to paragraph 58 of the Complaint, Defendant denies the
21 allegations contained therein, and further avers that Plaintiff is not entitled to judgment and
22 has incurred no actual damages. Defendant further avers that Plaintiff is not entitled to any
23 trebling of damages.

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1 **THIRD CLAIM FOR RELIEF**

2 **(Injunctive Relief Under Lanham Act: 15 U.S.C. § 1116)**

3 59. Defendant repeats, realleges, and incorporates by reference paragraphs 1
4 through 58 of this Answer as if fully set forth herein.

5 60. To the extent paragraph 60 of the Complaint sets forth legal conclusions, no
6 response is required. If a response is deemed required, the allegations of this paragraph
7 are denied. Defendant further denies any allegation that it makes any representation that it
8 is associated with, sponsored by, approved by and/or condoned by Plaintiff.

9 61. To the extent paragraph 61 of the Complaint sets forth legal conclusions, no
10 response is required. If a response is deemed required, the allegations of this paragraph
11 are denied. With respect to the factual allegations in paragraph 61 of the Complaint,
12 Defendant is without knowledge or information sufficient to form a belief as to the truth of
13 those factual allegations and on that basis denies the same.

14 62. Defendant denies the allegations in paragraph 62 of the Complaint.

15 With respect to the Prayer for Relief that follows paragraph 62 of the Complaint,
16 Defendant denies each allegation contained therein, and further avers that Plaintiff is not
17 entitled to judgment and has incurred no actual damages. Defendant further avers that
18 Plaintiff is not entitled to (1) any preliminary injunctive relief; (2) any permanent injunctive
19 relief; (3) any profits; (4) any judgment or award of damages; (5) any trebling of damages;
20 (6) attorneys' fees; and (7) any other relief or remedy at law or at equity.
21

22 **DEFENDANT'S DEFENSES**

23 Further answering, Defendant alleges upon current information and belief that:

- 24 1. Defendant has not infringed any valid trademark owned by Plaintiff.
25 2. Plaintiff's claims are barred, in whole or in part, on the basis that one or more
26 trademarks at issue are generic.
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1 3. Consumers throughout the United States do not identify Plaintiff’s claimed
2 trademark with Plaintiff.

3 4. Plaintiff’s claims are barred, in whole or in part, on the basis that one or more
4 trademarks at issue are merely descriptive and cannot be used as trademarks.

5 5. Defendant’s alleged use of the claimed trademarks is a descriptive, good faith
6 use, and is a fair use under the Lanham Act.

7 6. Plaintiff’s claims are barred by equitable considerations, such as laches.

8 7. Each of the purported claims set forth in the Complaint is barred by the
9 doctrines of waiver, acquiescence, and estoppel.

10 8. Plaintiff abandoned one or more of the claimed trademarks.

11 9. Plaintiff’s claims are barred, in whole or in part, because of a failure to
12 mitigate damages, if such damages exist.

13 10. Without admitting that the Complaint states a claim, Plaintiff has suffered no
14 damage in any amount or manner based on any act alleged against Defendant in the
15 Complaint, and the requested relief cannot be granted.

16 11. Plaintiff is not entitled to a jury trial.

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1 12. Answering further, Defendant asserts any and all defenses which are presently
2 unknown to it but which, when ascertained, Defendant prays leave to add to this Answer.
3

4 DATED: January 2, 2024

Respectfully submitted,

5
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