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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	92089483
Party	Defendant Ninety Plus LLC
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Date	12/10/2025
Attachments	ANSWER TO PETITION FOR CANCELLATION - Cancellation No 92089483.pdf(119174 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

90+ OT, LLC.,

Petitioner

v.

Ninety Plus LLC,

Respondent

Cancellation No. 92089483

In re Registration No. 5,586,370

**ANSWER TO PETITION FOR
CANCELLATION**

Mark: NINETY +

Date registered: October 16, 2018

Section 8 Renewal: April 17, 2025

Respondent, Ninety Plus LLC (“Respondent”), by and through its representative, hereby answers the Petition for Cancellation filed by 90+ OT, LLC (“Petitioner”) as follows:

RESPONSE TO BACKGROUND ALLEGATIONS

1. Respondent ADMITS the allegations contained in Paragraph 1.
2. Respondent ADMITS the allegations contained in Paragraph 2, including the filing of Application Serial No. 87/936,921 on May 25, 2018, the services recited therein, and the assertion of first use in commerce since at least as

early as December 31, 2013.

3. Respondent ADMITS that USPTO records reflect the procedural history of Petitioner's Application Serial No. 98/769151 and its claimed first use date of December 20, 2020.
4. Respondent ADMITS that USPTO records reflect the procedural history of Petitioner's Application, including the refusal under Section 2(d) and subsequent revival, and Respondent DENIES that the refusal was in error.

RESPONSE TO COUNT ONE – CANCELLATION BASED ON
ABANDONMENT

5. Respondent repeats and realleges its responses to the prior paragraphs as though fully set forth herein.
6. Respondent DENIES the allegations contained in Paragraph 6. Respondent has continuously used the NINETY + mark in interstate commerce since 2013 through regular annual clinics, social media promotion, youth training camps, and community programming. Respondent's most recent clinics occurred in 2023, and Respondent has planned, organized, and begun preparing for new clinics scheduled for 2025–2026. Respondent has never formed any intent to abandon the mark and has maintained a bona fide intent to continue offering services under the NINETY + mark at all relevant times.

7. Respondent DENIES the allegations contained in Paragraph 7. Any temporary interruptions in in-person clinics in 2019–2020 and 2024–2025 were due to special circumstances fully consistent with continued trademark use. These circumstances include (a) in 2019, the primary facility Respondent used for winter camp got destroyed via tornado, (b) in 2020, in-person events were prohibited due to the COVID-19 shutdown, (c) the founder’s professional soccer commitments, including international play and training obligations affected his availability for clinic scheduling and appearances, (c) the founder’s personal circumstances, including the birth of his first child and the purchase of a home, and (d) the unexpected cancellation by a local Ohio club partner that had committed to provide facilities, marketing, and participants for Respondent’s 2024 clinic. Respondent fully intended to hold the 2024 clinic and was ready to do so until the partner failed to perform. Respondent then began reevaluating and restructuring its operating model to ensure the continued success of future events. Throughout these periods Respondent maintained an uninterrupted bona fide intent to resume and continue offering clinics under the NINETY + mark.
8. Respondent DENIES the allegations contained in Paragraph 8.

RESPONSE TO COUNT TWO – CANCELLATION BASED ON NONUSE AT

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9. Respondent repeats and realleges its responses to the prior paragraphs as though fully set forth herein.
10. Respondent DENIES the allegations contained in Paragraph 10.
11. Respondent DENIES the allegations contained in Paragraph 11. Respondent was using the NINETY + mark in commerce as of the May 25, 2018, filing date. Respondent's use included, but was not limited to, (a) December 2017 social media promotions of NINETY + winter clinics, (b) a March 9, 2018 promotion of Respondent's Spring Clinic, (c) Respondent's 2018 Spring Clinic evidenced by customer invoices, waivers, internal organizing emails, and marketing materials bearing the mark, and (d) a May 2018 announcement of Respondent's upcoming Chicago event partnership. These activities constitute bona fide use in commerce prior to and on the filing date.
12. Respondent DENIES the allegations contained in Paragraph 12. Respondent had made bona fide use of the NINETY + mark in interstate commerce on or before May 25, 2018, and the Registration is not void ab initio.
13. Respondent DENIES the allegations contained in Paragraph 13.

RESPONSE TO STANDING

14. Respondent DENIES the allegations contained in Paragraph 14 except

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