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Filing date: **02/16/2004**

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

Proceeding	91158951
Party	Defendant BSH Home Appliances Corporation BSH Home Appliances Corporation 5551 McFadden Avenue Huntington Beach, CA 92649
Correspondence Address	R. Warren Comstock Robert Bosch Corporation 2800 South 25th Avenue Broadview, IL 60173
Submission	Answer and Counterclaim
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Date	02/16/2004
Attachments	bsh ans count.pdf (4 pages)

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

PRECISION TRADING CORP.,)

Opposer,)

v.)

BSH HOME APPLIANCES CORPORATION,)

Applicant.)

Opp. No. 91158951

ANSWER AND COUNTERCLAIM

Applicant, BSH Home Appliances Corporation, hereby answers the Notice of Opposition, and petitions to cancel opposer's Reg. No. 2,608,941, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1, and therefore denies same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2, and therefore denies same.
3. Applicant admits it is seeking registration of the mark PREMIUM PRESTIGE ("Premium" disclaimed) for "vacuum cleaners." Applicant denies the remaining allegations of Paragraph 3.
4. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 4, and therefore denies same.
5. Applicant denies the allegations of Paragraph 5.

Certificate of Transmission
I hereby certify that this correspondence is being electronically transmitted to the Patent and Trademark Office on February 16, 2004



**COUNTERCLAIM FOR
CANCELLATION OF REG. NO. 2,608,941**

6. As part of its grounds for this opposition, opposer claims exclusive rights in the common, laudatory term "premium" by virtue of its purported registration of PREMIUM for "electric irons; stand mixers, electric juice extractors, and clothes washing machines; clothes dryers, microwave ovens for cooking, electric toasters, electric toaster ovens, refrigerators, gas ranges, electric cooking ovens, freezers, electric slow cookers, and electric rice cookers and electric waffle irons," Reg. No. 2,608,941.

7. The term "premium" is, at best, merely descriptive of opposer's goods identified in Reg. No. 2,608,941.

8. The application that matured into Reg. No. 2,608, 941 was filed on November 6, 2000, and the registration was issued on August 20, 2002. In its application, opposer claimed a first use in commerce date for the identified goods of March 16, 1998.

9. On information and belief, as of the date of opposer's filing the application that matured into Reg. No. 2,608, 941, and as of the date that registration issued, the term "premium" had not become distinctive of opposer's identified goods in commerce.

10. On information and belief, as of today's date, the term "premium" has not become distinctive of opposer's identified goods in commerce.

11. Opposer's continued registration of the term "premium" in Reg. No. 2,608,941 is damaging to applicant, insofar as opposer is claiming exclusive rights to the word "premium" in the present opposition.

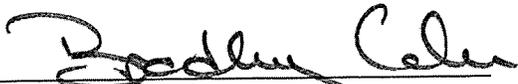
WHEREFORE, Applicant, BSH Home Appliances Corporation, respectfully requests that this Opposition be dismissed with prejudice, and that Reg. No. 2,608,941 be cancelled on the

ground that the registered mark is merely descriptive and has not become distinctive of opposer's identified goods in commerce.

Please deduct the requisite filing fee of \$900 from Deposit Account No. 16-0650 for the three classes of goods covered by registration sought to be canceled.

Respectfully Submitted,

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON

By 

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CERTIFICATE OF SERVICE

I hereby certify that a copy of Applicant's **ANSWER AND COUNTERCLAIM** was served upon Michael B. Chesal, KLUGER, PERETZ, KAPLAN & BERLIN, P.L., 201 S. Biscayne Blvd., 17th Floor, Miami, Florida, 33131, by first class mail, on this 16th day of February, 2004, postage prepaid.