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

Proceeding	91165519
Party	Defendant Anncas, Inc. Anncas, Inc. 16112 N.W. 13th Avenue, Suite E Miami, FL 33169
Correspondence Address	JESUS SANCHELIMA, ESQ. SANCHELIMA & ASSOCIATES, P.A. 235 S.W. LE JEUNE ROAD MIAMI, FL 33134-1762
Submission	Answer and Counterclaim
Filer's Name	Henry Rodriguez
Filer's e-mail	rodriguez@sanchelima.com
Signature	/hr/
Date	08/03/2005
Attachments	050803 AnswerOppAnncV5.pdf (8 pages)

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

CORPORACION HABANOS, S.A.,)	
)	
Opposer,)	
)	Opposition No. 91165519
v.)	
)	
ANNCAS, INC.,)	
)	
Applicant.)	
)	

**ANSWER TO NOTICE OF OPPOSITION
AND COUNTERCLAIM**

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

Now comes ANNCAS INCORPORATED (hereinafter “Applicant”), a Florida corporation with a place of business at 16112 N.W. 13th Avenue, Miami, Florida 33169, by and through its undersigned attorney to answer the Notice of Opposition to Applicant’s application Serial No. 78/363,024 filed by CORPORACION HABANOS, S.A. (hereinafter “Opposer”).

1. Applicant admits the allegations contained in paragraph 1.
2. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 2, and therefore, denies same.
3. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 3, and therefore, denies same.
4. Applicant denies the allegations contained in paragraph 4.
5. Applicant admits the allegations contained in paragraph 5.
6. Applicant denies the allegations contained in paragraph 6.
7. Applicant denies the allegations contained in paragraph 7.

8. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 8, and therefore, denies same.
9. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 9, and therefore, denies same.
10. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 10, and therefore, denies same.
11. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 11, and therefore, denies same.
12. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 12, and therefore, denies same.
13. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 13, and therefore, denies same.
14. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 14, and therefore, denies same.
15. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 15, and therefore, denies same.
16. Applicant denies the allegations contained in paragraph 16.
17. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 17, and therefore, denies same.
18. Applicant denies the allegations contained in paragraph 18.
19. Applicant denies the allegations contained in paragraph 19.
20. Applicant denies the allegations contained in paragraph 20.
21. Applicant denies the allegations contained in paragraph 21.

22. Applicant admits the allegations contained in paragraph 22.
23. Applicant admits the allegations contained in paragraph 23.
24. Applicant admits the allegations contained in paragraph 24.
25. Applicant admits the allegations contained in paragraph 25.
26. In paragraph 26, Applicant admits the allegations regarding Applicant's statements to the USPTO and denies the allegations as to Applicant's purpose in making said statements.
27. Applicant admits the allegations contained in paragraph 27.
28. Applicant denies the allegations contained in paragraph 28.
29. Applicant denies the allegations contained in paragraph 29.
30. Applicant denies the allegations contained in paragraph 30.
31. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 31, and therefore, denies same.
32. Applicant denies the allegations contained in paragraph 32.
33. Applicant denies the allegations contained in paragraph 33.
34. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 34, and therefore, denies same.
35. Applicant denies the allegations contained in paragraph 35.
36. Applicant denies the allegations contained in paragraph 36.
37. Applicant denies the allegations contained in paragraph 37.
38. Applicant admits the allegations contained in paragraph 38.
39. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 39, and therefore, denies same.

40. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 40, and therefore, denies same.
41. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 41, and therefore, denies same.
42. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 42, and therefore, denies same.
43. Applicant denies the allegations contained in paragraph 43.
44. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 44, and therefore, denies same.
45. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 45, and therefore, denies same.
46. Applicant does not have sufficient knowledge to either admit or deny the allegations contained in paragraph 46, and therefore, denies same.
47. Applicant denies the allegations contained in paragraph 47.
48. Applicant denies the allegations contained in paragraph 48.
49. Applicant denies the allegations contained in paragraph 49.
50. Applicant denies the allegations contained in paragraph 50.
51. Applicant repeats and re-answers each and every allegation set forth in paragraphs 1 through 50 of this Answer as if fully set forth herein.
52. Applicant denies the allegations contained in paragraph 52.
53. Applicant repeats and re-answers each and every allegation set forth in paragraphs 1 through 50 of this Answer as if fully set forth herein.
54. Applicant denies the allegations contained in paragraph 54.

55. Applicant repeats and re-answers each and every allegation set forth in paragraphs 1 through 50 of this Answer as if fully set forth herein.
56. Applicant denies the allegations contained in paragraph 56.
57. Applicant denies the allegations contained in paragraph 57.

AFFIRMATIVE DEFENSES

1. **ABANDONMENT:**

If Opposer, or its predecessor(s) in interest, ever legally used the mark in commerce, it subsequently abandoned the mark.

2. **LACK OF STANDING:**

Opposer has not and cannot show any claim to damage arising under Section 2(e)(3) from Applicant's registration of its application because Opposer is not and cannot be a competitor in the U.S. due to prohibitions arising from the U.S. embargo laws [22 U.S.C. 6023(7)].

3. **LACK OF PLACE / GOODS ASSOCIATION:**

Applicant contends that the Mark is not geographically deceptively misdescriptive under Section 2(e)(3) because there are no cigar manufacturers within the city of Havana, Cuba, nor are there any cigar manufacturers of significance within the province of Havana, Cuba, and the city of Havana does not have a reputation as a source of cigars. Cigars are produced in other provinces of Cuba (e.g. Pinar del Rio).

COUNTERCLAIM
FOR CANCELLATION

Counter-Petitioner Anncas, Inc., pursuant to 37 CFR 2.106(b)(2), submits this counterclaim against Counter-Respondent Corporacion Habanos, S.A.

1. On February 5, 2004, Counter-Petitioner filed a trademark application for HAVANA CLUB, for cigars made from Cuban seed tobacco, in international class 034, serial number 78/363,024.
2. Counter-Respondent owns the U.S. Registration No. 2,177,837 for HABANOS UNICOS DESDE 1492.
3. On June 14, 2005, Counter-Respondent filed a Notice of Opposition against Counter-Petitioner's application.
4. Counter-Respondent has not made use of the mark HABANOS UNICOS DESDE 1492 in commerce, as regulated by the United States Congress.
5. Counter-Respondent has abandoned any mark rights for HABANOS UNICOS DESDE 1492 it ever had, if any; and pursuant to 15 U.S.C. 1064(3), must be cancelled.

WHEREFORE, Applicant prays that the Opposition be dismissed and that Counter-Respondent's Registration No. 2,177,837 be cancelled.

Dated: Miami, Florida
August 3, 2005

Respectfully submitted,

SANCHELIMA & ASSOCIATES, P.A.

Attorneys for Applicant

235 S.W. Le Jeune Road

Miami, FL 33134-1762

Telephone: (305) 447-1617

Telecopier: (305) 445-8484

By: _____
Henry Rodriguez, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true correct copy of the foregoing was served via U.S. First Class Mail, this 3rd of August, 2005, to David B. Goldstein and Michael Krinsky, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., Attorney for Opposer, 740 Broadway, Fifth Floor, New York, New York 10003-9518.

BY: _____
Henry Rodriguez