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June 20, 2007

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, Virginia 22314

Re: CKX, Inc. v. Edward Kolos
Marks: VET AOD (Ser. No. 77/040,837); FIRST IN FIRST AID (Ser. No. 77/083,166);
LEMON ICE (Serial No. 77/011,937); E.N.R.G. (Serial No. 77/092,008);
H2OCEAN and Design (Reg. No. 2,880,750); H2OCEAN (Reg. No. 3,167,267)

Dear Sir/Madam:

Enclosed please find the following:

1. An original and two copies of a Combined Notice of Opposition and Petition to Cancel; and
2. A postage-paid, self-addressed postcard, which we request be stamped with the date of receipt and returned to us.

Please debit our Deposit Account No. 502876 for the \$3,300.00 filing fee and any additional necessary fees.

Cordially,

Douglas N. Masters
Partner

Enclosures

06-25-2007

U.S. Patent & TMO/TM Mail Rcpt Dt. #04

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

CKX, INC.,)	
)	
Opposer/Petitioner,)	Opposition No. _____
)	Cancellation No. _____
v.)	
)	
EDWARD KOLOS,)	
)	
Applicant/Registrant.)	

COMBINED NOTICE OF OPPOSITION AND PETITION TO CANCEL

CKX, Inc., ("CKX," "Opposer," or "Petitioner"), a Delaware corporation, doing business at 650 Madison Avenue, New York, NY 10022, believes it will be damaged by applications to register VET AID (Serial No. 77/040,837), FIRST IN FIRST AID (Serial No. 77/083,166), LEMON ICE (Serial No. 77/011,937), and E.N.R.G. (Serial No. 77/092,008), and believes it is damaged by continued registration of H2OCEAN and Design (Registration No. 2,880,750) and H2OCEAN (Registration No. 3,167,267), all of which are owned by Edward Kolos ("Kolos," "Applicant," or "Registrant"), and opposes and petitions to cancel the same.

As grounds for opposition and cancellation, CKX alleges that:

1. CKX, by and through its licensees, markets and sells, among other things, personal care products, food, and clothing.
2. Kolos is a competitor of CKX in the field of marketing and selling personal care products, food, and clothing.

COUNT I

THE ALLEGED MARKS ARE MERELY DESCRIPTIVE UNDER 15 U.S.C. §1052(e)

3. As alternative grounds to those alleged in Opposer's other counts, Opposer realleges the allegations of paragraphs 1 and 2 and makes the following allegations.

Certificate of Mailing
 I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Trademark Trial & Appeal Board, U.S. Patent & Trademark Office, Madison East, Concourse Level Room C 55, 600 Dulany Street, Alexandria, Virginia 22314 on June 20, 2007

4. Applicant's alleged marks, VET AID (Serial No. 77/040,837) and FIRST IN FIRST AID (Serial No. 77/083,166), are descriptive of the goods covered in the applications and have not acquired distinctiveness.

COUNT II

LACK OF BONA FIDE INTENT TO USE UNDER 15 U.S.C. § 1051(b)

5. As alternative grounds to those alleged in Opposer's other counts, Opposer realleges the allegations of paragraphs 1 and 2.

6. On information and belief, at the time he filed the opposed applications, Applicant lacked a *bona fide* intent to use the marks VET AID (Serial No. 77/040,837), FIRST IN FIRST AID (Serial No. 77/083,166), LEMON ICE (Serial No. 77/011,937), and E.N.R.G. (Serial No. 77/092,008), in commerce in connection with each of the goods set forth in the respective applications.

7. On information and belief, Applicant now lacks a *bona fide* intent to use each mark in commerce for each of the goods set forth in the respective applications.

COUNT III

FRAUD

8. As alternative grounds to those alleged in Opposer's other counts, Opposer realleges the allegations of paragraphs 1, 2, 6 and 7.

9. Applicant signed each of the applications for the marks VET AID (Serial No. 77/040,837), FIRST IN FIRST AID (Serial No. 77/083,166), LEMON ICE (Serial No. 77/011,937), and E.N.R.G. (Serial No. 77/092,008). In those applications, Applicant stated that he has a *bona fide* intention to use in commerce the mark in connection with the specific goods identified in each respective application. In each application, that statement was verified by

Applicant under the declaration that "all statements made herein of his own knowledge are true and all statements made on information and belief are believed to be true."

10. Kolos signed both of the applications for the marks H2OCEAN and Design (Registration No. 2,880,750) and H2OCEAN (Registration No. 3,167,267). In those applications, Kolos stated that it "...is using the mark in commerce...on or in connection with the identified goods and/or services." In each application, that statement was verified by Applicant under the declaration that "all statements made herein of his own knowledge are true and all statements made on information and belief are believed to be true."

11. Applicant committed fraud on the United States Patent and Trademark Office by virtue of the knowing, false, material claim regarding his intent to use the marks VET AID (Serial No. 77/040,837), FIRST IN FIRST AID (Serial No. 77/083,166), LEMON ICE (Serial No. 77/011,937), and E.N.R.G. (Serial No. 77/092,008). Applicant also committed fraud on the United States Patent and Trademark Office by virtue of the knowing, false, material claim regarding its use of the marks H2OCEAN and Design (Registration No. 2,880,750) and H2OCEAN (Registration No. 3,167,267).

COUNT IV

ABANDONMENT

12. Petitioner realleges the allegations in paragraphs 1, 2, 10 and 11.

13. On information and belief, Registrant has ceased use, within the meaning of 15 U.S.C. § 1127, of the H2OCEAN marks shown in Reg. Nos. 2,880,750 and 3,167,267 for some of the goods set forth in the respective registrations.

14. On information and belief, Registrant has intent not to resume use of the H2OCEAN marks shown in Reg. Nos. 2,880,750 and 3,167,267 for some of the goods set forth in the respective registrations.

15. Registrant has abandoned Reg. Nos. 2,880,750 and 3,167,267.

WHEREFORE, registration by Applicant of the applied for marks would be damaging to Opposer and continued registration by Registrant of the registered marks is damaging to Petitioner.

Please debit our Deposit Account No. 502876 for the \$3,300.00 filing fee and any additional necessary fees.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb, LLP, 321 North Clark Street, Suite 2300, Chicago, IL 60610.

Date: June 20, 2007

LOEB & LOEB LLP

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