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

Proceeding	91180742
Party	Defendant Krush Global Limited
Correspondence Address	William C. Wright Epstein Drangel Bazerman & James, LLP 60 East 42nd Street, Suite 820 New York, NY 10165 UNITED STATES
Submission	Answer
Filer's Name	William C. Wright
Filer's e-mail	mail@ipcounselors.com
Signature	/William C. Wright/
Date	12/21/2007
Attachments	opp.pdf (5 pages)(75064 bytes)

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

In the matter of U.S. Application Ser. No. 79/033,050
Mark: CRUSH & Design

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	:	
DR. PEPPER/SEVEN UP, INC.,	:	
	:	
Opposer,	:	
	:	Opposition No. 91180742
v.	:	
	:	
KRUSH GLOBAL LIMITED,	:	
	:	
Applicant.	:	
	:	
-----	-X	

ANSWER

Applicant, KRUSH GLOBAL LIMITED., by its undersigned attorneys, hereby answers the Notice of Opposition directed to the numbered paragraphs as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Notice of Opposition and therefore denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Notice of Opposition and therefore denies the same.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Notice of Opposition and therefore denies the same.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Notice of Opposition and therefore denies the same.
5. Applicant is without knowledge or information sufficient to form a belief as to the

truth of the allegations of Paragraph 5 of the Notice of Opposition and therefore denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Notice of Opposition and therefore denies the same.

7. Admitted.

8. Admitted.

9. Denied.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 of the Notice of Opposition and therefore denies the same.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 of the Notice of Opposition and therefore denies the same.

12. Denied.

13. Denied.

14. Denied.

15. Admits that Applicant seeks to use the CRUSSH Mark in connection with International Class 43 services and otherwise denies the remaining allegations of Paragraph 15 of the Notice of Opposition.

16. Admits that Applicant's application does not limit its channel of trade or consumers and otherwise denies the remaining allegations of Paragraph 16 of the Notice of Opposition

17. Denied.

18. No response is required.

19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 19 of the Notice of Opposition and therefore denies the same.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Opposer has failed to state a claim upon which relief would be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer's claims are barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

There is no likelihood of confusion between the respective marks.

FOURTH AFFIRMATIVE DEFENSE

Opposer has acquiesced to the registration and use of numerous marks incorporating the term "CRUSH" in connection with food and beverage related goods/services.

FIFTH AFFIRMATIVE DEFENSE

The marks when viewed in their entireties differ in sound, appearance, and meaning.

SIXTH AFFIRMATIVE DEFENSE

The term CRUSH as used by Opposer is merely descriptive, weak and commonly used by third parties.

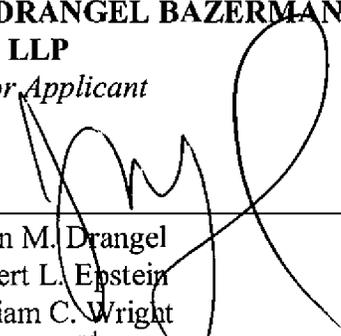
SEVENTH AFFIRMATIVE DEFENSE

There have been no instances of actual confusion between the respective marks.

Respectfully submitted,

**EPSTEIN DRANGEL BAZERMAN
& JAMES, LLP**
Attorneys for Applicant

Dated: December 19, 2007

By: 

Jason M. Drangel
Robert L. Epstein
William C. Wright
60 East 42nd Street, Suite 820
New York, New York 10165
Tel: (212) 292-5390
Fax: (212) 292-5391

Our Ref.: 2422-003

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER was served by First Class Mail, with sufficient postage prepaid, on this 21st day of December, 2007, upon Opposer's attorney:

Barbara A. Solomon
Laura Popp-Rosenberg
FROSS ZELNICK
866 United Nations Plaza
New York, NY 10017

By: 
William C. Wright

CERTIFICATE OF MAILING

I hereby certify that the foregoing ANSWER is being filed electronically with the T.T.A.B., on December 21, 2007.

By: 
William C. Wright