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Filing date: **02/05/2010**

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

Proceeding	91188973
Party	Defendant Gulam Nasser
Correspondence Address	Carey Brandt Anthony Venable, Campillo, Logan & Meaney, P.C. 1938 E. Osborn Road Phoenix, AZ 85016 UNITED STATES
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Michael F. Campillo
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Date	02/05/2010
Attachments	2010-02-05_Motion_to_AmendwAnswerwCC.pdf (6 pages)(64479 bytes)

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

In the matter of application Serial No. 77248780

Gapardis Health and Beauty, Inc. and Xavier P Tancogne Opposers, v. Gulam Nasser Applicant.	Opposition No. 91188973 Applicant's Consented Motion to File an Amended Answer with Counterclaim
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Applicant moves the Board under Fed. R. Civ. P. 15(a) and 37 C.F.R. § 2.107 to amend its answer and add a counterclaim. Applicant has obtained the consent of Opposers' counsel. Applicant's 1st Amended Answer with Counterclaim is attached.

Dated February 5, 2010.

Respectfully submitted,

s/Michael F. Campillo/

A. David Logan
Carey Brandt Anthony
Michael F. Campillo

Attorneys for Applicant
Venable, Campillo, Logan & Meaney, P.C.
1938 E. Osborn Rd.
Phoenix, Arizona 85016

(602) 631-9100 – Tel
(602) 631-4529 - Fax

Attachment: Applicant's 1st Amended Answer with Counterclaim

Certificate of Service

I hereby certify that the forgoing was served via email upon Opposers' counsel:

David M. Rogero
David M. Rogero, P.A.
2625 Ponce de Leon Boulevard, Suite 280
Coral Gables, FL 33134-6018
Tel: 305-441-0200
Fax: 305-460-4099

at the following email address: dmrogero@dmrpa.com on February 5, 2010.

By: s/Michael F. Campillo/

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

In the matter of application Serial No. 77248780

Gapardis Health and Beauty, Inc. and Xavier P Tancogne Opposers, v. Gulam Nasser Applicant.	Opposition No. 91188973 1ST AMENDED ANSWER TO NOTICE OF OPPOSITION WITH COUNTERCLAIM
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For its Amended Answer to the Notice of Opposition filed by Opposers, Gapardis Health and Beauty, Inc. and Xavier P Tancogne, Applicant, Gulam Nasser, denies Opposers will be damaged in any way by the registration of Applicant's trademark application Serial No. 77248780, and Applicant hereby answers and counterclaims as follows:

1. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 1 and accordingly denies them.
2. Applicant admits Paragraph 2.
3. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 3 and accordingly denies them.

4. Applicant denies the allegations of paragraph 4 because Applicant is without sufficient knowledge or information to determine if the registrations are in fact owned by Opposer.
5. Applicant denies the allegations of paragraph 5 because Applicant is without sufficient knowledge or information to verify, Tancogne's dates of the first use, or whether the marks and rights thereto were properly assigned, or whether the exclusive right to use the mark PARIS FAIR & WHITE is in fact, incontestable.
6. Applicant admits that it seeks registration of the mark SWISS SOFT'N WHITE in international class 003 but does not have sufficient knowledge or information to form a belief regarding whether the parties goods are identical or closely related. Applicant denies the remaining allegations contained in paragraph 6.
7. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 7 and accordingly denies them.
8. Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained in paragraph 8 and accordingly denies them.

Affirmative Defenses

9. Opposers' claims are barred by the doctrines of laches, estoppel, or acquiescence, Applicant's marks and registration, and the marks and registrations of Opposers' coexist in France or the European Union without confusion.

10. The Notice of Opposition, and each paragraph therein, taken individually or collectively, fails to state a cause of action upon which relief may be granted.
11. Opposer has not correctly used the marks set forth in Opposer's asserted registrations for at least some of the goods set forth in Opposer's registrations, and has waived any trademark rights it may allege.

Counterclaim

12. Applicant incorporates herein the allegations and denials of all previous paragraphs.
13. Opposers' registration 2934710, pictured below is void under 15 U.S.C. §1051(b), the application was filed by Mr. Xavier Tancogne, on May 7, 2003, but the owner was Gapardis Health & Beauty, Inc., ("Gapardis") based on an 2000 assignment from Mr. Tancogne to Gapardis.



WHEREFORE, Applicant prays that the Notice of Opposition be dismissed and that a registration issue to Applicant for the subject application.

Respectfully submitted,

s/Michael F. Campillo/

A. David Logan
Carey Brandt Anthony
Michael F. Campillo

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at the following email address: dmrogero@dmrpa.com on 2/5/10.

By: s/Michael F. Campillo/