

ESTTA Tracking number: **ESTTA349395**

Filing date: **05/25/2010**

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

Proceeding	91194024
Party	Plaintiff Golding Farms Foods, Inc.
Correspondence Address	PETER J. JURAN BLANCO TACKABERY & MATAMOROS, P.A. PO DRAWER 25008 WINSTON-SALEM, NC 27114 UNITED STATES pjj@blancolaw.com, mmo@blancolaw.com
Submission	Answer to Counterclaim
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Signature	/Peter J. Juran/
Date	05/25/2010
Attachments	GFFAnswerToCounterclaimNaturalHealthySpringWater.PDF ( 3 pages )(97656 bytes )

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

GOLDING FARMS FOODS, INC., )  
 )  
 Opposer, )  
 )  
 v. ) **ANSWER TO AMENDED COUNTERCLAIM**  
 )  
 JAQUEZ, RAYMOND d/b/a MULTI )  
 VITAMIN ENERGY CORP., )  
 )  
 Applicant. )

Opposer, responding to the amended counterclaim of Applicant, responds and says as follows:

**AS TO THE FACTUAL ALLEGATIONS:**

1. Opposer alleges that the use of its mark on bottled water is not “unconnected goods under common law”, but constitutes past and current usage of Opposer’s mark and is incorporated within Opposer’s registration.
2. Opposer denies that its registered goods are significantly different from Applicant’s goods under Applicant’s application (as well as under Applicant’s registration under the supplemental register). Opposer’s and Applicants goods are related and Opposer can reasonably be expected to expand its product line to encompass Applicant’s goods.
3. Opposer denies that its registered goods are ambiguous and undefined.
4. Opposer denies that Applicant’s marks have been in use in good faith and are distinct and narrowly defined.
5. Opposer respectfully submits that the restriction proposed by Applicant, limiting Applicant’s mark Natural Healthy Spring Water to “bottled water drinking water, namely spring water,” and registered mark Natural Healthy Water to “bottled vitamin enriched water” is appropriate or would be sufficient to avoid a likelihood of confusion between Opposer’s registered mark and Applicant’s requested registration and therefore denies same.

**AFFIRMATIVE DEFENSES:**

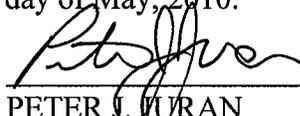
1. Applicant has failed to plead facts sufficient to support its claims for limitation of Opposer's naturally healthy mark, and the counterclaim should be dismissed.

2. Opposer's registration, as well as Opposer's use of its registered mark in commerce both predate Applicant's use and said prior use is pleaded as a bar to the relief requested by Applicant.

3. Applicant's mark is substantially similar to Opposer's mark, when viewed in their entireties and used in connection with the parties' respective goods, and are therefore likely to cause confusion, mistake and deception, as well as injury to the public and to Opposer, and Applicant's requested relief should be denied.

4. Applicant's registration number 2999319, dated July 18, 2005 on the supplemental register for the word mark "Natural Healthy Water" in international class 005 for bottled vitamin enriched water is entitled to little or no deference, and Opposer has as of the date of this reply filed a petition to cancel said mark. Said mark on the supplemental register is entitled to no deference and it is anticipated will be canceled in any event.

Respectfully submitted, this the 25th day of May, 2010.

  
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PETER J. FURAN  
N.C. State Bar No. 13566  
Attorney for Plaintiff

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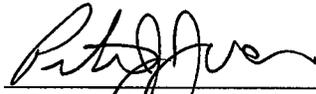
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 JAQUEZ, RAYMOND d/b/a MULTI )  
 VITAMIN ENERGY CORP., )  
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 Applicant. )

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served the foregoing **ANSWER TO AMENDED COUNTERCLAIM** upon counsel by depositing a copy in the United States Mail, postage pre-paid, and addressed as follows:

Harold G. Furlow, Esq.  
260 W. Main St., Ste. 10  
Bay Shore, NY 11706-8322

This the 25<sup>th</sup> day of May, 2010.



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PETER J. FURAN  
N.C. State Bar No. 13566

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