

ESTTA Tracking number: **ESTTA363094**

Filing date: **08/13/2010**

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

| | |
|------------------------|---|
| Proceeding | 91194954 |
| Party | Defendant Absopure Water Company |
| Correspondence Address | JOHN P. GUENTHER DYKEMA GOSSETT PLLC 39577 WOODWARD AVE , STE 300 BLOOMFIELD HILLS, MI 48304-5086 UNITED STATES jguenther@dykema.com |
| Submission | Other Motions/Papers |
| Filer's Name | Eric T. Fingerhut |
| Filer's e-mail | efingerhut@dykema.com, jguenther@dykema.com, smckeon@dykema.com, ipmail@dykema.com |
| Signature | /Eric T. Fingerhut/ |
| Date | 08/13/2010 |
| Attachments | Answer to Amended Notice of Opposition (Opposition No. 91194954).pdf (3 pages)(50081 bytes) |

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

In re Application of
Absopure Water Company

Serial No.: 77/813,512

Mark: EV20 – WATER HAS EVOLVED

Goods: Bottled drinking water; flavor enhanced drinking water; and
drinking water with vitamins.

Filing Date: August 26, 2009

Published : January 19, 2010

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|------------------------|---|-------------------------|
| Evolv Health, LLC, |) | |
| Opposer |) | |
| |) | |
| v. |) | Opposition No. 91194954 |
| |) | |
| Absopure Water Company |) | |
| Applicant |) | |

ANSWER TO AMENDED NOTICE OF OPPOSITION

For its answer to the Amended Notice of Opposition, Applicant, Absopure Water Company, states the following:

1. Applicant is without knowledge or information sufficient to admit or deny the allegations of ¶ 1 of the Amended Notice of Opposition and therefore denies same.
2. Applicant is without knowledge or information sufficient to admit or deny the allegations of ¶ 2 of the Amended Notice of Opposition and therefore denies same.
3. Applicant is without knowledge or information sufficient to admit or deny the allegations of ¶ 3 of the Amended Notice of Opposition and therefore denies same.

4. Admitted.

5. Applicant admits the allegations of ¶ 5 of the Amended Notice of Opposition but denies the implication that Opposer has prior rights in the mark EVO2LV and that Applicant's use of the mark EV20 – WATER HAS EVOLVED is likely to cause confusion.

6. Denied.

7. Denied.

8. Denied.

Applicant denies all allegations of the Amended Notice of Opposition not expressly admitted above. WHEREFORE, Applicant prays that the Amended Notice of Opposition be dismissed.

Absopure Water Company

Dated: August 13, 2010

By: Eric T. Fingerhut

John P. Guenther
Attorney for Applicant
Dykema Gossett PLLC
39577 Woodward Avenue Suite 300
Bloomfield Hills, Michigan 48304-5086

and

Eric T. Fingerhut
Attorney for Applicant
Dykema Gossett PLLC
1300 I Street, N.W.
Suite 300 West
Washington, DC 20005

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Answer to the Amended Notice of Opposition was served on the following attorney of record for Opposer by depositing same in the United States mail, first class, postage pre-paid, this 13th day of August 2010:

Charles G. Zug
Attorney for Opposer
Nelson Mullins Riley & Scarborough, L.L.P.
1320 Maine Street, 17th Floor
Columbia, South Carolina 29201

Eric T. Fingerhut