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

Proceeding	91199123
Party	Defendant Speed Energy Drink, LLC
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Date	05/02/2011
Attachments	Answer 85060108 - 91199123.pdf (17 pages)(351373 bytes)

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

In the Matter of Application Serial No. 85060108

Published in the *Official Gazette* on November 23, 2010

RICARDO A. AZZARELLO.

Opposer,

- against -

SPEED ENERGY DRINK, LLC

Applicant.

Index No. ESTTA389510

**ANSWER TO AMENDED
OPPOSITION**

March 23, 2011

ANSWER TO AMENDED OPPOSITION

Dear Sir or Madam:

Applicant, Speed Energy Drink, LLC, the owner of the trademark "SPEED ENERGY" ("Applicant") in response to the Amended Opposition filed by Opposer, Ricardo A. Azzarello ("Opposer"), with the Trademark Trial and Appeal Board and mailed to Applicant on March 23, 2011, answers the Amended Opposition as follows:

Applicant denies generally and specifically, each and every allegation stated against it in the Amended Opposition, and the whole thereof.

COUNT ONE - FRAUD

1. Applicant does not dispute the allegations contained in paragraph 1, and further alleges:
 - a. Opposer claims that he "is the owner and partner" of the Argentine company, Energy Group, S.R.L. Applicant is informed that there is or may be a relationship between Energy Group, S.R.L. and the Spanish company known as Enerhaus Import, S.L.
 - b. Enerhaus Import, S.L. (which may be also affiliated with Opposer) registered the mark "Speed Unlimited Energy Drink" with the USPTO in 2003.

- c. The mark was not used in U.S. commerce, and was later abandoned.
 - d. Registration of the mark was cancelled for failure to file the required maintenance document with the USPTO establishing actual use of the mark in commerce.
 - e. Energy Group, S.R.L. (with whom Opposer claims to be affiliated) has repeatedly represented both orally and in writing that they have no intention of using the mark in U.S. commerce, and has indicated that they have no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" and Applicant's logo in the United States, Mexico, and Canada in connection with Applicant's energy drink products.
2. Applicant does not dispute the allegations contained in paragraph 2.
 3. Applicant does not have sufficient information or belief to determine the truth or falsity of the allegations contained in paragraph 3 and on that basis, denies each and every allegation contained in paragraph 3.
 4. Applicant denies that Opposer or any affiliated entity, owned or used the identified mark in U.S. commerce. Applicant alleges that the mark "Speed Unlimited Energy Drink" (overlying a red "S" logo) has been used by Energy Group, S.R.L. almost exclusively within the country of Argentina, with nominal use in Chile and Mexico. Energy Group, S.R.L. has made the express representation to Applicant on multiple occasions that use of the mark is limited almost exclusively to Argentina, together with the further express representation that they have no intention of using the mark in U.S. commerce. Applicant lacks sufficient information or belief to determine the truth or falsity of any remaining allegations of paragraph 4 and on that basis denies each and every remaining allegation of Paragraph 4.
 5. Applicant lacks sufficient information or belief to enable it to determine the truth or falsity of the allegations contained in Paragraph 5 and on that basis denies each and every allegation in paragraph 5, and more particularly in that regard denies that Opposer or any affiliated entity has or does use the identified mark in U.S. commerce. Applicant is further informed and believes, and based thereon alleges that Opposer has never used the mark "Speed Unlimited Energy Drink" at all; that Energy Group, S.R.L. has used the mark "Speed Unlimited Energy Drink" (overlying a red "S" logo) almost exclusively within the country of Argentina; that they have made very limited use of the mark in Chile and Mexico; that they have represented that they have no intention of using the mark in U.S. Commerce; and that Applicant has relied on that representation.
 6. Answering paragraph 6, Applicant denies that Opposer has or does use the mark in U.S. commerce, and more particularly in that regard, alleges as follows:

- a. Opposer alleges that he “is the owner and partner” of the Argentine company, Energy Group, S.R.L. Applicant is informed that there is some relationship between Energy Group, S.R.L. and Enerhaus Import, S.L.
 - b. Enerhaus Import, S.L. (which may be affiliated with Opposer) registered the mark “Speed Unlimited Energy Drink” with the USPTO in 2003.
 - c. The mark was not used in U.S. commerce, and was later abandoned.
 - d. Registration of the mark was cancelled for failure to file the required maintenance document with the USPTO establishing actual use of the mark in commerce.
 - e. Energy Group, S.R.L. (with whom Opposer claims to be affiliated) has repeatedly represented both orally and in writing that they have no intention of using the mark in U.S. commerce, and has indicated that they have no objection to Applicant’s use of its marks “SPEED ENERGY” and “SPEED ENERGY DRINK” and Applicant’s logo in the United States, Mexico, and Canada in connection with Applicant’s energy drink products.
7. Applicant does not dispute that Energy Group, S.R.L. has used the identified mark in connection with the sale of energy drinks in Argentina for several years, and alleges that the mark used by Energy Group, S.R.L. is distinct and different from the mark that is the subject of the pending application. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 7.
8. Applicant denies each and every allegation contained in paragraph 8.
9. Answering paragraph 9, Applicant does not dispute that in late spring of 2010 Applicant contacted Energy Group, S.R.L. for the purpose of discussing a possible sponsorship agreement in connection with the then upcoming Dakar Rally race to be run through parts of Argentina and Chile in calendar year 2011. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 9.
10. Answering paragraph 10, Applicant does not dispute that in June of 2010 Robby Gordon and other representatives of Applicant traveled to Buenos Aries, Argentina to meet with Energy Group, S.R.L. for the purpose of discussing a possible sponsorship and product sale agreement pursuant to which an entity known as Robby Gordon Motorsports (owned by internationally known racecar driver Robby Gordon) would provide promotional benefits in connection with the 2011 Dakar Rally to be run in Argentina and Chile in exchange for payment in the form of energy drink products which would be canned and labeled with Applicant’s marks and pursuant to its labeling instructions. Applicant further does not dispute that the meetings included three individuals who identified themselves as representatives of Energy Group, S.R.L., the entity that produces

Speed Unlimited Energy Drink. Those individuals were Carlos Melian, Walter Santangelo, and Victor Stiffle. The primary spokesman for Energy Group, S.R.L. was Carlos Melian, who spoke English and was identified by Energy Group, S.R.L. as the representative with whom Applicant should communicate pertaining to the relationship. The meetings were conducted in English. Opposer was not present for any of the meetings or the negotiations. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 10.

11. Answering paragraph 11, Applicant does not dispute that its representatives were taken on a tour of the Speed Unlimited manufacturing and packaging facility during the June 2010 meetings, and further does not dispute that samples and promotional materials were delivered to Applicant's representatives. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 11.
12. Answering paragraph 12, Applicant does not dispute that on June 26, 2010, after several hours of negotiations in which Opposer did not participate, the parties entered into a sponsorship agreement pursuant to which Robby Gordon Motorsports would provide promotional benefits in the 2011 Dakar Rally to Speed Unlimited/Energy Group, S.R.L. in exchange for payment in the form of energy drink products to be labeled with Applicant's trademarks in accordance with Applicant's instructions. Applicant further admits that as part of the sponsorship agreement, the parties exchanged license rights such that Speed Unlimited/Energy Group, S.R.L. received license rights with respect to Robby Gordon's name and likeness for promotions in the 2011 Dakar Rally, and Applicant received a license to sell, distribute and promote Speed Unlimited/Energy Group, S.R.L. products in the United States, Mexico and Canada. Applicant does not dispute that an expanded copy of the June 26, 2010 agreement is attached as Exhibit B to the Opposition. A further copy of the agreement in the form in which it was signed is attached hereto as Exhibit A. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 12.
13. Applicant does not dispute that paragraph 13 includes partially excerpted and redacted provisions of the June 26, 2010 agreement. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 13.
14. Answering paragraph 14, Applicant admits that it did not request and was not given any proprietary rights or ownership of Opposer's marks, and more particularly in that regard, alleges that Opposer was not present and was never identified as the owner of any marks; that the Speed Unlimited/Energy Group, S.R.L. representatives who were present were specifically informed and acknowledged that Applicant intended to use its own trademarks and labeling for the Energy Drink products that Applicant intended to market in the U.S., Canada, and Mexico; that the Speed Unlimited/Energy Group, S.R.L. representatives were shown pictures of certain of the marks Applicant intended to use, including the "S" logo and the "SPEED" name as they appeared in connection with Robby

Gordon's SPEED FACTORY webcast; that the Speed Unlimited/Energy Group, S.R.L. representatives agreed that the product to be provided by Speed Unlimited/Energy Group, S.R.L. would be labeled "Unlimited," and that it would represent just one of several flavors to be developed by Applicant for sale in the United States, Mexico, and Canada; and that they expressly agreed to Applicant's plan as explained. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 14.

15. Applicant denies each and every allegation contained in paragraph 15, and more particularly in that regard alleges that:
 - a. The agreement specifically provides that Applicant would transmit its labeling information to Speed Unlimited/Energy Group, S.R.L. on or near July 15, 2010.
 - b. Applicant transmitted its labeling information to Speed Unlimited/Energy Group S.R.L. on July 16, 2010, which label included Applicant's mark "SPEED ENERGY" with the name "UNLIMITED" inserted to identify the Unlimited flavor as provided in the agreement.
 - c. Mr. Melian responded on behalf of Speed Unlimited/Energy Group, S.R.L. with a series of communications indicating that Speed Unlimited/Energy Group, S.R.L. was not satisfied with the label and wanted Applicant to use Speed Unlimited's marks as they are used in Argentina.
 - d. The ensuing communications culminated in a mutual decision and agreement to cancel the June 26, 2010 agreement, which cancellation was confirmed in writing as documented in the e-mail chain attached hereto as Exhibit B.
 - e. As part of the communication documented in Exhibit B, and with knowledge of Applicant's labeling plans and trademark status, Speed Unlimited/Energy Group, S.R.L. expressly congratulated and encouraged Applicant to proceed, stating: "We sincerely hope this new project keeps growing and fills your expectations," and "We've been following your marketing campaign online, and we believe you are on the right track."
 - f. These express written statements from Speed Unlimited/Energy Group, S.R.L. were in furtherance of earlier telephonic communications pursuant to which Carlos Melian specifically represented that Speed Unlimited/Energy Group, S.R.L. had no objection to Applicant's use of Applicant's trademarks "SPEED ENERGY," "SPEED ENERGY DRINK", and Applicant's logo in the United States, Mexico and Canada in connection with Applicant's energy drink products.
16. Applicant denies each and every allegation contained in paragraph 16, and more particularly in that regard alleges that Speed Unlimited/Energy Group, S.R.L. was

expressly informed of Applicant's intention to use its trademarks during the June 2010 meetings, and was shown pictures of Robby Gordon's Nascar racecar displaying the "S" logo and the "SPEED" name as they appeared in connection with Robby Gordon's SPEED FACTORY webcast.

17. Applicant denies each and every allegation contained in paragraph 17, and more particularly in that regard alleges that it has abandoned the lightning bolt "S" logo referenced in the Opposition due to a conflict with the "S" logo used by Specialized Bicycle Company, and applicant has since moved to a double tire track logo.
18. Applicant denies each and every allegation contained in paragraph 18.
19. Applicant denies each and every allegation contained in paragraph 19.
20. Applicant denies each and every allegation contained in paragraph 20.
21. Applicant denies each and every allegation contained in paragraph 21, and more particularly in that regard, alleges that:
 - a. The quoted statement from the application is and was true.
 - b. Speed Unlimited/Energy Group, S.R.L. had no right to use of the mark "SPEED ENERGY" or "SPEED ENERGY DRINK" and had abandoned the mark "Speed Unlimited Energy Drink" by failing to use the mark in U.S. commerce.
 - c. Mr. Melian on behalf of Speed Unlimited/Energy Group, S.R.L. had expressly represented in telephone communications before the application was presented that Speed Unlimited/Energy Group, S.R.L. had no intention of selling their products or using the "Speed Unlimited Energy Drink" mark in U.S. commerce.
 - d. In the June 2010 meeting in Argentina and again in writing in July of 2010, Speed Unlimited/Energy Group, S.R.L. representatives expressly represented that they had no intention of selling their products or using the mark in U.S. commerce.
22. Answering paragraph 22, Applicant does not dispute that the declaration and other writings were submitted to the USPTO for the purpose of obtaining trademark registrations of the names "SPEED ENERGY" and "SPEED ENERGY DRINK". Applicant denies that these statements were in any way false, and alleges that the communications and conduct of Opposer and Speed Unlimited/Energy Group, S.R.L. demonstrate that the statements contained in the application were truthful. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 22.

23. Answering paragraph 23, Applicant does not dispute that the declaration and other writings were submitted to the USPTO for the purpose of obtaining trademark registrations of the names "SPEED ENERGY" and "SPEED ENERGY DRINK". Applicant denies that these statements were in any way false, and alleges that the communications and conduct of Opposer and Speed Unlimited/Energy Group, S.R.L. demonstrate that the statements contained in the application were truthful. Except as expressly admitted herein, Applicant denies each and every allegation contained in paragraph 23.
24. Applicant denies each and every allegation contained in paragraph 24.
25. Applicant denies each and every allegation contained in paragraph 25.

COUNT TWO - DILUTION

26. Answering paragraph 26, Applicant repeats and realleges its responses set forth in paragraphs 1 through 25, above.
27. Applicant denies each and every allegation contained in paragraph 27, and more particularly in that regard, Applicant alleges that Opposer's alleged marks are not famous as a matter of law.
28. Applicant denies each and every allegation contained in paragraph 28.
29. Applicant denies each and every allegation contained in paragraph 29.

FIRST AFFIRMATIVE DEFENSE

30. Opposer is not and was not the owner of the mark "Speed Unlimited Energy Drink" in any jurisdiction, including the United States, and did not participate in the communications, negotiations, formation or cancellation of the agreement referred to in the Opposition. For these and other reasons, Opposer lacks standing to challenge this registration based on the "Speed Unlimited Energy Drink" mark or other events alleged in the Opposition.

SECOND AFFIRMATIVE DEFENSE

31. The owner of the registered mark "Speed Unlimited Energy Drink" was Enerhaus Import, S.L. However, because the mark was never used in U.S. Commerce, the owner was unable to provide the USPTO required declaration of use, which resulted in cancellation of the registration in 2009. Consistent with that failure to use and resulting cancellation, representatives of Speed Unlimited/Energy Group, S.R.L. (with whom Opposer claims to be affiliated) made repeated representations to Applicant beginning in June of 2010 that they had no intention of selling product or using the mark in U.S. commerce, and indicated that they have no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" and Applicant's logo in the United States, Mexico, and Canada in connection with Applicant's energy drink products. Applicant relied

on those representations in numerous respects beginning in June of 2010 and continuing thereafter. Moreover, in connection with the mutually agreed cancelation of the June 26, 2010 sponsorship agreement, representatives of Speed Unlimited/Energy Group, S.R.L. made further representations that they had no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" in the United States, Mexico and Canada, and they encouraged Applicant to proceed with same with written statements like: "We've been following your marketing campaign online, and we believe you are on the right track," and, "We sincerely hope this new project keeps growing and fills your expectations." For these and other reasons, Opposer is now estopped from opposing Applicant's registration.

THIRD AFFIRMATIVE DEFENSE

32. The owner of the registered mark "Speed Unlimited Energy Drink" was Enerhaus Import, S.L. However, because the mark was never used in U.S. Commerce, the owner was unable to provide the USPTO required declaration of use, which resulted in cancellation of the registration in 2009. Consistent with that failure to use and resulting cancellation, representatives of Speed Unlimited/Energy Group, S.R.L. (with whom Opposer claims to be affiliated) made repeated representations to Applicant beginning in June of 2010 that they had no intention of selling product or using the mark in U.S. commerce and indicated that they have no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" and Applicant's logo in the United States, Mexico, and Canada in connection with Applicant's energy drink products. Applicant relied on those representations in numerous respects beginning in June of 2010 and continuing thereafter. Moreover, in connection with the mutually agreed cancelation of the June 26, 2010 sponsorship agreement, representatives of Speed Unlimited/Energy Group, S.R.L. made further representations that they had no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" in the United States, Mexico and Canada, and they encouraged Applicant to proceed with same with written statements like: "We've been following your marketing campaign online, and we believe you are on the right track," and, "We sincerely hope this new project keeps growing and fills your expectations." For these and other reasons, Opposer has consented to Applicant's use and registration of the mark that is the subject of the pending registration.

FOURTH AFFIRMATIVE DEFENSE

33. The owner of the registered mark "Speed Unlimited Energy Drink" was Enerhaus Import, S.L. However, because the mark was never used in U.S. Commerce, the owner was unable to provide the USPTO required declaration of use, which resulted in cancellation of the registration in 2009. Consistent with that failure to use and resulting cancellation, representatives of Speed Unlimited/Energy Group, S.R.L. (with whom Opposer claims to be affiliated) made repeated representations to Applicant beginning in June of 2010 that they had no intention of selling

product or using the mark in U.S. commerce, and indicated that they have no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" and Applicant's logo in the United States, Mexico, and Canada in connection with Applicant's energy drink products. Applicant relied on those representations in numerous respects beginning in June of 2010 and continuing thereafter. Moreover, in connection with the mutually agreed cancellation of the June 26, 2010 sponsorship agreement, representatives of Speed Unlimited/Energy Group, S.R.L. made further representations that they had no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" in the United States, Mexico and Canada, and they encouraged Applicant to proceed with same with written statements like: "We've been following your marketing campaign online, and we believe you are on the right track," and, "We sincerely hope this new project keeps growing and fills your expectations." For these and other reasons, Opposer has acquiesced in Applicant's use and registration of the mark that is the subject of the pending registration.

FIFTH AFFIRMATIVE DEFENSE

34. The owner of the registered mark "Speed Unlimited Energy Drink" was Enerhaus Import, S.L. However, because the mark was never used in U.S. Commerce, the owner was unable to provide the USPTO required declaration of use, which resulted in cancellation of the registration in 2009. Consistent with that failure to use and resulting cancellation, representatives of Speed Unlimited/Energy Group, S.R.L. (with whom Opposer claims to be affiliated) made repeated representations to Applicant beginning in June of 2010 that they had no intention of selling product or using the mark in U.S. commerce, and indicated that they have no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" and Applicant's logo in the United States, Mexico, and Canada in connection with Applicant's energy drink products. Applicant relied on those representations in numerous respects beginning in June of 2010 and continuing thereafter. Moreover, in connection with the mutually agreed cancellation of the June 26, 2010 sponsorship agreement, representatives of Speed Unlimited/Energy Group, S.R.L. made further representations that they had no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" in the United States, Mexico and Canada, and they encouraged Applicant to proceed with same with written statements like: "We've been following your marketing campaign online, and we believe you are on the right track," and, "We sincerely hope this new project keeps growing and fills your expectations." For these and other reasons, Opposer has waived any opposition to Applicant's use and registration of the mark that is the subject of the pending registration.

SIXTH AFFIRMATIVE DEFENSE

35. In connection with the mutually agreed cancellation of the June 26, 2010 sponsorship agreement, representatives of Speed Unlimited/Energy Group, S.R.L.

made representations that they had no objection to Applicant's use of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" in the United States, Mexico and Canada, and they encouraged Applicant to proceed with same with written statements like: "We've been following your marketing campaign online, and we believe you are on the right track," and, "We sincerely hope this new project keeps growing and fills your expectations." For these and other reasons, Opposer has acknowledged, admitted, represented and agreed that the use of the mark "Speed Unlimited Energy Drink" by Speed Unlimited/Energy Group, S.R.L. can readily coexist with Applicant's use and registration of its marks "SPEED ENERGY" and "SPEED ENERGY DRINK" that are the subject of the pending registration proceedings.

SEVENTH AFFIRMATIVE DEFENSE

36. Opposer has not used and does not use the mark "Speed Unlimited Energy Drink" in U.S. commerce, and the mark is not and never has been famous. Opposer cannot demonstrate that the mark is "widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark's owner," as is required to establish that the mark is famous so as to justify a dilution claim. Further, it is Applicant and not Opposer who has used the name "SPEED" in connection with energy drink products in U.S. Commerce. For this reason and others, Opposer cannot show that Applicant's registration or continued use of its marks would deceive the public as to the source or origin of such products in U.S. Commerce. For these and other reasons, Opposer's purported claim for dilution fails as a matter of law.

EIGHTH AFFIRMATIVE DEFENSE

37. Applicant has been using the marks "SPEED ENERGY" and "SPEED ENERGY DRINK" in the relevant product classes in United States commerce since 2010, which marks are different and distinct from the mark referred to in the opposition. Opposer has no right to use or to object to the use or registration by applicant of the marks "SPEED ENERGY" or "SPEED ENERGY DRINK" in U.S. Commerce.

NINTH AFFIRMATIVE DEFENSE

38. Opposer should be barred from the requested relief by reason of its bad faith and unclean hands in the relevant facts and circumstances pertaining to the matters alleged in his Opposition.

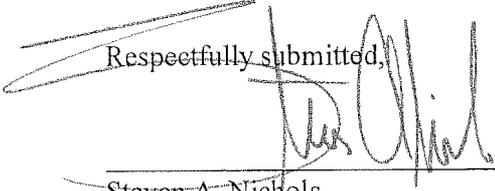
TENTH AFFIRMATIVE DEFENSE

39. Applicant alleges that there may be additional affirmative defenses to the Opposition which are currently unknown to Applicant. Applicant reserves the right to amend this Answer to allege additional affirmative defenses in the event discovery or other information indicates that they are appropriate.

WHEREFORE, Applicant respectfully requests that this Opposition be denied and that the registration sought by Application Serial No. 85060108 for the mark "SPEED ENERGY" be allowed to proceed to registration.

Dated: May 2, 2011

Respectfully submitted,



Steven A. Nichols
Susan Barricella
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Costa Mesa, CA 92626
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Facsimile: 714-546-9035
snichols@rutan.com
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Attorneys for Applicant

CERTIFICATION OF ELECTRONIC FILING

I hereby certify that the attached **SPEED ENERGY DRINK'S ANSWER TO AMENDED OPPOSITION** was filed electronically with the Trademark Trial and Appeal Board on May 2, 2011.


Susan Barricella

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document entitled **SPEED ENERGY DRINK'S ANSWER TO AMENDED OPPOSITION** was served by first class mail to the following addresses on May 2, 2011, such being the Petitioner's address listed in the TARR system as of this date, with a courtesy copy being sent to Registrant's Attorney of Record and Correspondence as listed in the TARR system as of this date.

Brittany J. Maxey
Maxey Law Offices, PLLC
15500 Roosevelt Blvd., Suite 305
Clearwater, Florida 33760


Michelle Mann

EXHIBIT A

Agreement

SU = Speed Unlimited.

RGM/SE = Robby Gordon Motorsports/Speed Energy.

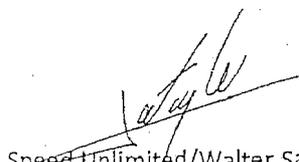
Case = 24 cans @ 250 milliliter each.

1. RGM/SE to provide to SU primary sponsorship on one RGM/SE Hummer (driven by Robby Gordon) in 2011 Dakar Rally, with associated benefits including Robby Gordon endorsement and one large support truck with SU logos/name.
 - a. SU has right to promote and have license rights for Robby Gordon name & likeness and promotions throughout Dakar Rally.
2. SU to provide to RGM/SE SU product as follows:
 - a. First 10 containers (28,880 cases) - no charge.
 - b. Next 125,000 cases @ \$4 per case.
 - c. Next 125,000 cases @ \$8 per case.
 - d. Next 20,160 cases - no charge.
 - e. Next cases for 2011 and 2012 @ \$12 per case.
 - f. RGM/SE has right to sell, distribute and promote SU products throughout U.S., Mexico and Canada and license for same.
3. RGM/SE to pay shipping; SU to assist in getting best shipping prices/options.
4. Planned schedule:
 - a. RGM/SE to get labeling information to SU approx. July 15, 2010.
 - b. Shipping first 2 containers of product approx. Oct. 1, 2010.
 - c. Approx. 2 plus containers each month thereafter.
5. RGM/SE to develop SU product as primary beverage flavor among its 5 beverage flavors (currently named unlimited, diva, cool orange, low cal, coffee) for start up, and will review with SU before adding more flavors. SU to have first right of refusal to manufacture, sell and distribute RGM/SE's other 4 flavors in South America.



Robby Gordon/Speed Energy

President Date 6-26-10



Speed Unlimited/Walter Santangelo

Apoderado Date 26-6-10

EXHIBIT B

Nichols, Steve

From: Carlos Melian [carlos@speed-unlimited.com.ar]
Sent: Thursday, December 02, 2010 8:19 AM
To: Nichols, Steve; 'Robby Gordon'
Cc: 'Jose Alfonso'
Subject: RE: June 26, 2010 Agreement

Steve / Robby,

Thank you for the information, we'll be happy to cooperate with the cancellation of the FDA registration.

On the other hand, we wanted to congratulate you and your team for the job you are doing, we sincerely hope this new project keeps growing and fills your expectations. We've been following your marketing campaign online, and we believe you are on the right track.

Please don't hesitate to contact us if you need any assistance before or during the Dakar Rally, count on our structure for anything you may need.

Hopefully we'll have a chance to meet during your stay in Argentina.

Best Regards,

Carlos Melián
Energy Group
Berón de Astrada 675 - Ramos Mejía
Buenos Aires - Argentina
Tel. (54-11) 4460-4460
www.speed-unlimited.com

De: Nichols, Steve [mailto:snichols@rutan.com]
Enviado el: Miércoles, 01 de Diciembre de 2010 04:41 p.m.
Para: Carlos Melian
CC: Nichols, Steve
Asunto: June 26, 2010 Agreement

Carlos:

I am writing to formally confirm our agreement canceling the June 26, 2010 agreement between RGM/SE and Speed Unlimited. You may receive a confirmation notice from the US FDA when I cancel the foreign food facility registration that I previously processed here in the US. Let me know if you have any questions on that.

I know I speak for Robby and myself in wishing you, Victor and Walter all the best for the future. Maybe there will be an opportunity for to work together on something at some point, and perhaps we will get a chance to visit when we are in Argentina for the upcoming Dakar Rally.

Best Regards,
Steve

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