ESTTA Tracking number: **ESTTA461670**

Filing date: **03/14/2012**

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

Proceeding	91201166
Party	Defendant Paul Shim
Correspondence Address	HYONG C KIM LAW OFFICE OF LEE & ASSOCIATES 3530 WILSHIRE BLVD , STE 1280 LOS ANGELES, CA 90010-2321 UNITED STATES wilshirefirm@yahoo.com
Submission	Motion to Amend Application
Filer's Name	Yong Bom Lee, Esq.
Filer's e-mail	wilshirefirm@yahoo.com
Signature	/Yong Bom Lee/
Date	03/14/2012
Attachments	USPTO BTTAB 91201166 Petition to Amend After Publication.pdf (23 pages)(4173112 bytes) USPTO BTTAB 91201166 Petition to Amend After Publication Decl of Kim.pdf (1 page)(311339 bytes) USPTO BTTAB 91201166 Petition to Amend After Publication Decl of Lee.pdf (1 page)(340139 bytes) USPTO BTTAB 91201166 Petition to Amend After Publication Decl of Customers.pdf (13 pages)(841211 bytes) USPTO BTTAB 91201166 Petition to Amend After Publication Proof of Service.pdf (1 page)(135339 bytes)

Docket No. IP-05874-BL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No.: 85/249961 **MARK: PowerZEN**

Applied on: Feb. 26, 2011

Published on: July 26, 2011

Opposition Filed on: August 15, 2011

CHANG OH KIM,	)	**Opposition No.: 91201166**
Petitioner,	)	
vs.	)	**PETITION FOR AMENDMENT AFTER**
PAUL SHIM,	)	**PUBLICATION**
Applicant	)	
	)	
	)	

Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA 22313-1451

PETITION FOR AMENDMENT AFTER PUBLICATION

Paul Shim (hereinafter referred to as "**Applicant**"), by and through its undersigned attorney, hereby files the Petition for Amendment After Publication as follows:

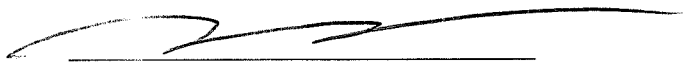
First Date of Use is amended to be "May 1, 2010," instead of "December 1, 2010.

///

Respectfully submitted,

LAW OFFICE OF LEE & ASSOCIATES

Dated: March 14, 2012



Yong Bom (Brian) Lee, Wilson B. Quan, Hyong C. Kim

Attorneys for Applicant

Telephone Number: (213) 368-7717

Declaration of PAUL SHIM

I, Paul Shim, declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in support of my Petition for Amendment After Publication where I am seeking to amend the first date of use to "May 1, 2010," from "December 1, 2010," and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. There was an individual named Hoonam Kim, who was doing business as Ephphatha, selling products under the mark of "Powerzen" and "Pro Powerzen" since May 2010. I then acquired the right to use these marks from Hoonam Kim in December 2010, and when I sought a filing of the trademark application, I mistakenly believed that the first date of use meant the first date I used the mark under my company's name only.

4. I sought another legal advice on this matter, and now I am advised that the first date of use is May, 1, 2010, when Hoonam Kim, dba Ephphatha, started using this mark, as I acquired the right to use from this individual.

5. I acquired the right to use these marks from Hoonam Kim, as a part of agreement that we would market the products with new design and investment from my company.

6. I have collected information support this Petition and I found a few pages of advertisement materials as attached hereto as Exhibit A. This shows the dates that Hoonam Kim, dba Ephphatha, did promotions. Also, Exihbit B is samples of invoices showing transactions of POWERZEN, while customers' names and contact information are redacted for protection. Also, I have obtained a few declarations from my customers declaring that POWERZEN was used from 05/2010.

7. Therefore, I now file a petition to amend the first date of use to May 1, 2010, from December 1, 2010, and I respectfully requests that my application for trademark registration be amended accordingly.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, executed in Los Angeles, California.

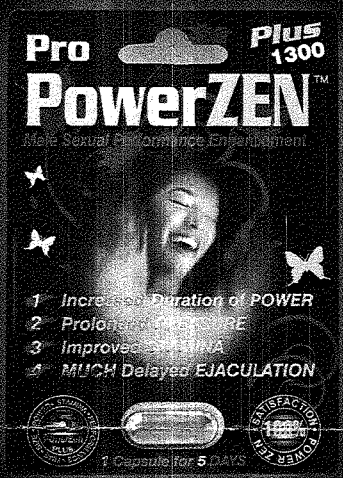
DATED: Oct. 21, 2011

By: _____
Paul Shim

Exhibit A. Advertisement Materials in 05-06/2010

Pro PowerZen™

Male Sexual Performance Enhancement



Plus 1300

1 Increased Duration of POWER
2 Prolonged PLEASURE
3 Improved STAMINA
4 Much Delayed EJACULATION

Satisfy Your Partner And Yourself With The Most Advanced Libido Formula

- Last up to 5 days
- Enhanced endurance for maximum pleasure
- Bigger, harder, longer lasting erections
- Prevents premature ejaculation
- Guarantee rock-hard erection
- Increase sexual stamina and sex drive
- More powerful, intense orgasm
- Maximize your sex drive

POWER • STAMINA • PERFORMANCE • TIME • SIZE
5
PowerZEN PLUS

Buy 1 Get 1 FREE!
(May/June 2010 Only)

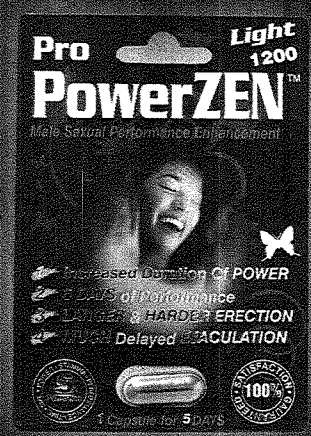
SATISFACTION • 100% • POWER ZEN

Pro PowerZen™

Male Sexual Performance Enhancement

Plus 1300

1 Increased Duration of POWER
2 Prolonged PLEASURE
3 Improved STAMINA
4 Much Delayed EJACULATION



Light 1200

Satisfy Your Partner And Yourself With The Most Advanced Libido Formula

- Last up to 5 days
- Enhanced endurance for maximum pleasure
- Bigger, harder, longer lasting erections
- Prevents premature ejaculation
- Guarantee rock-hard erection
- Increase sexual stamina and sex drive
- More powerful, intense orgasm
- Maximize your sex drive

POWER • STAMINA • PERFORMANCE • TIME • SIZE
5
PowerZEN

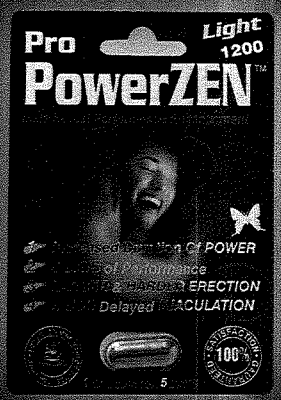
1 Capsule for 5 DAYS

SATISFACTION 100% POWER ZEN

FAST ACTING
LONG TIME

Pro PowerZen™

Male Sexual Performance Enhancement

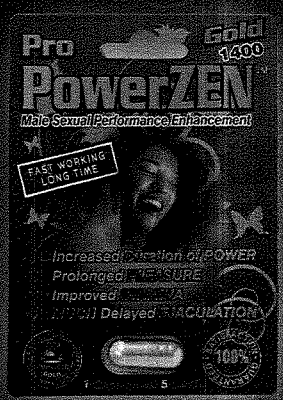


Light 1200

1 Increased Duration of POWER
2 Prolonged PLEASURE
3 Improved STAMINA
4 Much Delayed EJACULATION

Plus 1300

- Last up to 5 days
- Enhanced endurance for maximum pleasure
- Bigger, harder, longer lasting erections
- Prevents premature ejaculation
- Guarantee rock-hard erection
- Increase sexual stamina and sex drive
- More powerful, intense orgasm
- Maximize your sex drive



Gold 1400

Satisfy Your Partner And Yourself With The Most Advanced Libido Formula

1 2 3 4 5

POWER • STAMINA • PERFORMANCE • TIME • SIZE
5
PowerZEN

[redacted]

INVOICE

DATE	4/15/2010
INVOICE #	10PZ05002
AMOUNT	**$990.00**
DUE DATE	4/15/2010

Sold To

EPHPHATHA
1954 CAMWOOD AVE.
ROWLAND Heights, CA 91748

Tel: Fax:

Ship To

EPHPHATHA
(For: Packaging(PowerZen))
1954 CAMWOOD AVE.
ROWLAND Heights, CA 91748

'PLEASE DETACH TOP PORTION AND RETURN WITH PAYMENT

[redacted]

ACCT NO.	INVOICE NO.	PO NO.	TERMS	REP	SHIP DATE	SHIP VIA
KEPH01	10PZ05002		COD	KEPH01___	4/15/2010	P

ORDERED		DESCRIPTION	SHIPPED	UNIT PRICE	Ext. Price
1	Y-Y	Packaging(PowerZen)-1,000	1	$990.000	$990.00
			TOTAL		**$990.00**

NO RETURNS CAN BE ACCEPTED WITHOUT OUR WRITTEN AUTHORIZATION.
UNPAID BALANCE AFTER DUE DATE ARE SUBJECT TO 1.5% LATE PAYMENT CHARGE.

4/15/10 $990 -

Cindy

Exhibit B. Sample Invoices

[redacted]

EPHPHATHA
1954 CAMWOOD AVE.
ROWLAND HEIGHTS, CA 91748
909-784-[illegible]

DATE 5/28/10

CUSTOMER'S ORDER NO

NAME [redacted]

ADDRESS [redacted]

CITY STATE ZIP [redacted]

SOLD BY | CASH | C.O.D. | CHARGE | ON ACCT | MDSE RETD | PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	10	magazine	2	20 -
2	6	Power Zen	5	30 -
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
			TAX	
			TOTAL	50.00

RECEIVED BY

EPHPHATHA
1954 CAMWOOD AVE.
ROWLAND HEIGHTS, CA 91748
909-784-[illegible]

[redacted]

ROW[illegible] TAP

DATE 6/01/10

CUSTOMER'S ORDER NO

NAME [redacted]

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	6	Powerzen	5	30.–
2	2	Jerky Slab	20	40.–
3	4	magazine	2	8.–
4				
5				
6				
7				
8				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX

TOTAL 78.00

DATE 6/01/10

NAME Bill

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RET'D	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	6	PowerZen	5	30.-
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX	
TOTAL	30.00

DATE 6/01/10

NAME Sam Sam

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RET'D	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	2	Jerky	20	40.-
2	3	Takis	11.50	34.50
3	6	powerzen	5-	30.-
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX	
TOTAL	104.50

EPHI[illegible]ATHA
1954 C[illegible]WOOD AVE.
ROWLAN[illegible] [illegible]GHTS, CA 91748
[illegible] 8060

DATE 6/28/10

CUSTOMER'S ORDER NO

NAME Mike

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	2	Jerky Slab	20	40.-
2	6	PowerZen	5	30.-
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX

TOTAL 70.00

EPHPHATHA

7/12/10

CUSTOMER'S ORDER NO.

NAME W Beverly

ADDRESS [redacted]

CITY, STATE, ZIP

SOLD BY [redacted]

CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	1	Jerky Slab	20	20.-
2	10	DVD	1	10.-
3	10	magazine	2	20.-
4	6	Powerzon	5	30.-
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
			TAX	
			TOTAL	80.00

RECEIVED BY

DATE 7/12/10

CUSTOMER'S ORDER NO. | DEPARTMENT

NAME Adriana's

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	12	PowerZem	5	60.-
2				
3				
4				
5				
6				
7				
8				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX

TOTAL 60.00

[redacted]

DATE 7/16/10

CUSTOMER'S ORDER NO.

DEPARTMENT

NAME Pit

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	2	Jerky Slab	20	40.-
2	6	PowerZen	5	30.-
3				
4				
5				
6				
7				
8				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX	
TOTAL	70.00

DATE 7/26/10

CUSTOMER'S ORDER NO. DEPARTMENT

NAME W/ Beverly

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	6	Paperzen	5	30.-
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX	
TOTAL	30.60

[redacted]

EPHPHATHA

[illegible] WOOD AVE.
[illegible] PA 91748
[illegible]

DATE 7/27/10

CUSTOMER'S ORDER NO | DEPARTMENT

NAME Crossroads

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	4	Jerky Slab	20	80.--
2	10	powerZen	5	50.--
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX

TOTAL 130.00

EPHPHATHA

8/09/10

CUSTOMER ORDER NO.

NAME Adriana's

ADDRESS [redacted]

CITY STATE ZIP [redacted]

SOLD BY | CASH | C.O.D. | CHARGE | ON ACCT. | MDSE. RET.

QUANTITY			PRICE	AMOUNT
1	1	Jerky Slab	20	20.-
2	12	powerstick	5	60.-
3				
4				
5				
6				
7				
8				
11				
12				
13				
14				
15				
16				
17				
18				
			TAX	
			TOTAL	80.00

RECEIVED BY

[redacted]

DATE 8/09/10

NAME Sam Sam

ADDRESS [redacted]

CITY STATE ZIP [redacted]

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	1	Jerky Stick	20	20.-
2	1	Takis	11.50	11.50
3	6	Powerade	5	30.-
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX	
TOTAL	61.50

EPHPHATHA
1954 CAMWOOD AVE.
ROWLAND HEIGHTS, CA 91748

DATE 8/10/10

CUSTOMER'S ORDER NO. DEPARTMENT

NAME Crossroads

ADDRESS [redacted]

CITY, STATE, ZIP [redacted]

SOLD BY	CASH	C.O.	CHARGE	ON ACCT	MDSE RETD	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	3	Jerky Slab	20	60.-
2	10	powerzen	5	50.-
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX

TOTAL 110.00

8/13/10

NAME pit

ADDRESS [redacted]

CITY STATE ZIP [redacted]

SOLD BY

QUANTITY		DESCRIPTION	PRICE	AMOUNT
1	3	Jerky Slab	20	60.-
2	6	Powerzen	5	30.-
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

RECEIVED BY

TAX

TOTAL 90.00

Declaration of HOONAM KIM

I, Hoonam Kim, declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in support of the Petition for Amendment After Publication filed by Paul Shim where he is seeking to amend the first date of use to "May 1, 2010," from "December 1, 2010," and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. I had a sole proprietorship business entity under the fictitious name of Ephphatha, established on or around September 23, 2009. I sold a male sexual performance enhancement products under the name of "Powerzen" and "Pro Powerzen" since May 1, 2010.

4. I knew Mr. Paul Shim as he was in the similar industry, and we agreed that he would distribution and market the products using the same names from December 1, 2010, under the entity he owns.

5. As a part of the agreement, Mr. Shim was to introduce a new design of the products and invest sums in marketing, which he has performed to date as agreed.

6. I again testify that I started using the mark "Powerzen" and "Pro Powerzen" since May 1, 2010, and transferred my right to use the marks to Mr. Paul Shim, and he started using these marks since December 1, 2010.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, executed in Los Angeles, California.

DATED: Oct. 31, 2011

By: Hoonam Kim
Hoonam Kim

Declaration of JUNG J. LEE

I, Jung J. Lee, aka JJ Lee, declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in support of the Petition for Amendment After Publication filed by Paul Shim where he is seeking to amend the first date of use to "May 1, 2010," from "December 1, 2010," and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. I am a husband of Sharon E. Chang, and I have handled most of the manufacturing, sales, marketing, internal management, and most of the general business matters with my wife under the fictitious business name of "Power Life Distributors," in Southern California, and for the products named "Trio Powerzen." Because of my job duties, I have the first hand knowledge as to most of the business matters, more specifically, when we started using the mark "Trio Powerzen," and who we sold the products to.

4. My wife filed the fictitious business name statement in the county of Los Angeles on or around August 20, 2010, and this is when we started selling products under the mark of "Trio Powerzen." The reason we used this name was that there were products in the market under the name of "Powerzen" and "Pro Powerzen" since around May 2010, which was well accepted in the market, and we wanted to see if we can use similar name to get some advantage in sales.

6. I was working with other individuals, and I quit having business relationship with those individuals as I was doing business on my own since early 2011. The people I used to work with still use the name "Trio Powerzen," and some others, such as "Triple Powerzen," however, I know for sure that the mark "Powerzen" and "Pro Powerzen" were used from May

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No.: 85/249961 **MARK: PowerZEN**

Applied on: Feb. 26, 2011

Published on: July 26, 2011

Opposition Filed on: August 15, 2011

CHANG OH KIM,	**Opposition No.: 91201166**
Petitioner,	
vs.	**DECLARATION OF DAESUN KANG**
PAUL SHIM,	
Applicant	

I, Daesun Kang, declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in opposition to Chang Oh Kim's Petition for Opposition to the registration of the trademark application of "PowerZen," and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. I used to work with a gentleman named Joseph Han from November 1, 2010 until June 2011. His real name is Hee Dong Han, and he conducted his business of selling male sexual performance enhancement products under various names, such as Biopower, HD Trading, Pld Power Life Distributors, etc.

4. I was a salesman selling various male sexual performance enhancement products under Mr. Han's directions, and I personally know that there was another product named "Powerzen" sold by another company from early 2010.

5. I also have personal knowledge that Mr. Han was sued by a company manufacturing "Extenze" and he wanted to conduct a business with other individuals under others' business entity, due to the asset exposure issue if he continues using his own company.

6. In the marketplace, the name "Powerzen" was very appealing to customers in late 2010 and early 2011, and Mr. Han directed to make products under similar names, such as Trio Powerzen or Triple Powerzen.

7. There was one gentleman, named Chang Oh Kim, who joined the company under Mr. Han's direction in around 01/2011, and Mr. Kim had never worked under Power Life Distributor or any other name under Mr. Han's control before January 2011.

8. Mr. Kim was acting as a representative of Pld Power Life Distributors selling Trio Powerzen or Triple Powerzen from around March 2011.

9. Again, at no point before January 2011, Mr. Kim was working in this industry as far as I know, and he only started working in selling these male sexual performance enhancement products from January or March 2011.

///

///

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, executed in Los Angeles, California.

DATED: September 22, 2011

By: Dae Sun Kang
Daesun Kang

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No.: 85/249961 **MARK: PowerZEN**

Applied on: Feb. 26, 2011

Published on: July 26, 2011

Opposition Filed on: August 15, 2011

CHANG OH KIM,	)	**Opposition No.: 91201166**
Petitioner,	)	
vs.	)	**DECLARATION OF SEOK SONG**
PAUL SHIM,	)	
Applicant	)	
	)	
	)	

I, SEOK SONG, declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in opposition to Chang Oh Kim's Petition for Opposition to the registration of the trademark application of "PowerZen," and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. I have my own business selling general merchandise and one of the items I sell is male sexual performance enhancement products. I have ran this business for a few years now.

4. I had a business relationship with Mr. Hee Dong Han, aka, Joseph Han, from July 1, 2009 until June 2011 where I purchased his products for retail sales in my business.

5. Mr. Han has used various company names always, and he has carried so many different names of the products, whereas they were all similar male sexual performance enhancement products.

6. In the marketplace, the name "Powerzen" was very appealing to customers in late 2010 and early 2011, and Mr. Han sold the products under similar names, such as Trio Powerzen or Triple Powerzen.

7. I personally know that there was one gentleman, named Chang Oh Kim, who joined the company under Mr. Han's direction in around 01/2011, and Mr. Kim had never worked under Power Life Distributor or any other name under Mr. Han's control before January 2011.

8. Mr. Kim was acting as a representative of Pld Power Life Distributors selling Trio Powerzen or Triple Powerzen from around March 2011.

9. Again, at no point before January 2011, Mr. Kim was working in this industry as far as I know, and he only started working in selling these male sexual performance enhancement products from January or March 2011.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, executed in Los Angeles, California.

DATED: September 22, 2011

By: _____
Seok Song

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No.: 85/249961 **MARK: PowerZEN**

Applied on: Feb. 26, 2011

Published on: July 26, 2011

Opposition Filed on: August 15, 2011

CHANG OH KIM,	**Opposition No.: 91201166**
Petitioner,	
vs.	**DECLARATION OF** Cathy Kim
PAUL SHIM,	
Applicant	

I, Cathy Kim declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in opposition to Chang Oh Kim's Petition for Opposition to the registration of the trademark application of "Powerzen" and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. I am an owner of a gas station and general merchandise store of ARCO AM PM located at 7667 E Slauson Avenue, Commerce, CA 90040, and I am the person handling all purchases, inventory management, and other general business matters. I am very well aware of male sexual

enhancement products since they are somewhat hot selling items and there are severe competitions in the marketplace.

4. There are many different names of the products in the marketplace, and there have been many similar names in the marketplace. Since in or around 05/2010, I have purchased the products named "Pro Powerzen," which is a product line of POWERZEN from a business named Ephphatha.

5. When POWERZEN name was accepted well in the marketplace, there were other products with the similar names of "Triple Powerzen" or " Trio Powerzen" since late 2010 or early 2011, by another company, called Power Life Distributor.

6. I know that Mr. Paul Shim took over the product lines of Pro Powerzen and Powerzen and he has continued selling those products, while there were other Trio or Triple Powerzen offered for sale by Mr. Shim's competitor since around late 2010 or early 2011.

7. Again, the products of Pro Powerzen and Powerzen were offered since 05/2010, and they are still sold by Mr. Paul Shim.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, executed in Los Angeles, California.

DATED: Feb. 9, 2012

By: _____

Name: Cathy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No.: 85/249961 **MARK: PowerZEN**

Applied on: Feb. 26, 2011

Published on: July 26, 2011

Opposition Filed on: August 15, 2011

CHANG OH KIM,	**Opposition No.: 91201166**
Petitioner,	
vs.	**DECLARATION OF** Tai H. Cho
PAUL SHIM,	
Applicant	

I, Tai H Cho, declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in opposition to Chang Oh Kim's Petition for Opposition to the registration of the trademark application of "Powerzen" and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. I am an owner of market of Hollydale market located at 5720 E Imperial Hwy, South Gate, CA 90280, and I am the person handling all purchases, inventory management, and other general business matters. I am very well aware of

male sexual enhancement products since they are somewhat hot selling items and there are severe competitions in the marketplace.

4. There are many different names of the products in the marketplace, and there have been many similar names in the marketplace. Since in or around 05/2010, I have purchased the products named "Pro Powerzen," which is a product line of POWERZEN from a business named Ephphatha.

5. When POWERZEN name was accepted well in the marketplace, there were other products with the similar names of "Triple Powerzen" or " Trio Powerzen" since late 2010 or early 2011, by another company, called Power Life Distributor.

6. I know that Mr. Paul Shim took over the product lines of Pro Powerzen and Powerzen and he has continued selling those products, while there were other Trio or Triple Powerzen offered for sale by Mr. Shim's competitor since around late 2010 or early 2011.

7. Again, the products of Pro Powerzen and Powerzen were offered since 05/2010, and they are still sold by Mr. Paul Shim.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, executed in Los Angeles, California.

DATED: Feb. 12, 2012

By: Tai H Cho

Name:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No.: 85/249961 **MARK: PowerZEN**

Applied on: Feb. 26, 2011

Published on: July 26, 2011

Opposition Filed on: August 15, 2011

CHANG OH KIM,	**Opposition No.: 91201166**
Petitioner,	
vs.	**DECLARATION OF** Haesook Song
PAUL SHIM,	
Applicant	

I, Haesook Song, declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in opposition to Chang Oh Kim's Petition for Opposition to the registration of the trademark application of "Powerzen" and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. I am an owner of liquor store of LMG Liquor located at 4610 E Compton Blvd, Compton, CA 90021, and I am the person handling all purchases, inventory management, and other general business matters. I am very

well aware of male sexual enhancement products since they are somewhat hot selling items and there are severe competitions in the marketplace.

4. There are many different names of the products in the marketplace, and there have been many similar names in the marketplace. Since in or around 05/2010, I have purchased the products named "Pro Powerzen," which is a product line of POWERZEN from a business named Ephphatha.

5. When POWERZEN name was accepted well in the marketplace, there were other products with the similar names of "Triple Powerzen" or " Trio Powerzen" since late 2010 or early 2011, by another company, called Power Life Distributor.

6. I know that Mr. Paul Shim took over the product lines of Pro Powerzen and Powerzen and he has continued selling those products, while there were other Trio or Triple Powerzen offered for sale by Mr. Shim's competitor since around late 2010 or early 2011.

7. Again, the products of Pro Powerzen and Powerzen were offered since 05/2010, and they are still sold by Mr. Paul Shim.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, executed in Los Angeles, California.

DATED: Feb. 9, 2012

By: Hae Sook Song
Name: Hae Sook Song

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No.: 85/249961 **MARK: PowerZEN**

Applied on: Feb. 26, 2011

Published on: July 26, 2011

Opposition Filed on: August 15, 2011

CHANG OH KIM,	)	**Opposition No.: 91201166**
Petitioner,	)	
vs.	)	**DECLARATION OF Young Kim**
PAUL SHIM,	)	
Applicant	)	
	)	
	)	

I, Young Kim, declare as follows:

1. I am over the age of 18 years and a resident of the State of California. The matters stated in this declaration are based upon my personal knowledge, except as to those matters stated on information and belief, and as to such matters, I am informed and believe that they are true and correct, and if called as a witness I could, and would, testify competently thereto.

2. I submit this declaration in opposition to Chang Oh Kim's Petition for Opposition to the registration of the trademark application of "Powerzen" and am authorized to do so. As to the following facts, I know them to be true of my own knowledge.

3. I am an owner of liquor store. West Beverly Liquor located at 2321 W Beverly Blvd, Montebello, California, and I am the person handling all purchases, inventory management, and other general business matters. I am very well aware of male sexual

enhancement products since they are somewhat hot selling items and there are severe competitions in the marketplace.

4. There are many different names of the products in the marketplace, and there have been many similar names in the marketplace. Since in or around 05/2010, I have purchased the products named "Pro Powerzen," which is a product line of POWERZEN from a business named Ephphatha.

5. When POWERZEN name was accepted well in the marketplace, there were other products with the similar names of "Triple Powerzen" or " Trio Powerzen" since late 2010 or early 2011, by another company, called Power Life Distributor.

6. I know that Mr. Paul Shim took over the product lines of Pro Powerzen and Powerzen and he has continued selling those products, while there were other Trio or Triple Powerzen offered for sale by Mr. Shim's competitor since around late 2010 or early 2011.

7. Again, the products of Pro Powerzen and Powerzen were offered since 05/2010, and they are still sold by Mr. Paul Shim.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, executed in Los Angeles, California.

DATED: Feb. 21, 2012

By: _____

Name: Young Kim

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am a resident of the country aforesaid; am over the age of eighteen years and not a party to the within action. My business address is 3530 Wilshire Blvd., Suite 1280 Los Angeles, CA 90010.

On March 14, 2012, I served the within documents:

PETITION FOR AMENDMENT AFTER PUBLICATION; AND DECLARATIONS

On the interested parties in the above action, by faxing and mailing a true copy thereof as follows:

Je M. Cha, Esq.
Law Offices of J. M. Cha & Associates
3200 Wilshire Blvd., Suite 1207
Los Angeles, CA 90010

Executed on March 14, 2012, at Los Angeles, California

[ ] STATE I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[X] FEDERAL I declare that I am employed in the office of a member of the bar of Federal Court at whose direction the service was made.

Su Lee