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

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|------------------------|---|
| Proceeding | 91217482 |
| Party | Defendant Jeff Pearson |
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| Submission | Other Motions/Papers |
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| Signature | /Jeff Pearson/ |
| Date | 08/11/2015 |
| Attachments | MOTION FOR SUMMARY DEFENSE.pdf(459435 bytes) affidavit copy.pdf(450245 bytes) General Public Survey.pdf(427263 bytes) page 1.pdf(897238 bytes) page 2.pdf(853087 bytes) page 3.pdf(863915 bytes) page 4.pdf(884712 bytes) page 5.pdf(905313 bytes) page 6.pdf(572035 bytes) page 7.pdf(894413 bytes) page 8.pdf(876657 bytes) page 9.pdf(891143 bytes) page 10.pdf(676230 bytes) Where's the Dilution.pdf(3886689 bytes) |

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

In the Matter of Application SN 86076424: Gamer Aid
Published in the *Official Gazette* dated March 25, 2014

STOKELY – VAN CAMP, INC.,

Opposer,

v.

Opposition No. 91217482

JEFF PEARSON

Applicant.

**APPLICANT’S DEFENSE / APPEAL AGAINST MOTION FOR SUMMARY
JUDGEMENT AS WELL AS SUPPORTING EVIDENCE.**

I realize that Stokely Van Camp has requested a summary judgment for the case without giving me the time to appropriately to respond, as well as trying to by pass all of the following dates for Plaintiff’s Pretrial Disclosures, Defendants Pretrial Disclosures, and Plaintiffs Rebuttal Disclosures. I’m ok with this ONLY if this paper titled **“APPLICANT’S DEFENSE / APPEAL AGAINST MOTION FOR SUMMARY JUDGEMENT AS WELL AS SUPPORTING EVIDENCE.”** Is read and weighed Justly, as a proper defense for the Applicant Jeff Pearson, as I have not been granted that right due to Stokely Van Camp trying to remove that right from me prematurely through the Motion of a Summary Judgement.

Under the assumption that right is granted I shall begin with my defense.

Definitions –

1. Any time “I” is being used as a reference; it is referring to the Applicant Jeff Pearson.
2. Any time a quotation (“insert quotation here”) is being referenced, such as can “go either way”, it will always be in reference to the document titled **OPPOSERS MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT**, which did the Opposer file, unless a different document is specified.
A page and paragraph number if able will also always accompany it.
EXAMPLE “go either way” (Pg. 3, Par. 1)
3. Pg. means page number
4. Par means paragraph
5. When “you” is said it is referring to the general public unless otherwise noted.

I. Response to pleadings.

The pleadings from the Opposer are more or less a review of the company itself, boasting it’s impressive sales results “billions of dollars of products sold under it’s GATORADE mark” (Pg.2 , Par. 1 of OPPOSER’S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT), as well as how famous it is (it has spent hundreds of millions in advertising – (Pg. 2, Par. 1)), how long it’s been famous for (since before my filing – (Pg.2, Par. 1)), it’s good will with the public, that I had knowledge of it’s existence, that I admit that I filed my mark with knowledge of its existence, and that I have not yet made Gamer Aid for drinks. All of this will be

defended, if necessary, in my FACTS section with the exception of the fact that I have not yet made Gamer Aid into a drink yet. That part I will address right now.

The reason I have not made a drink yet is because I needed to see what direction the suit will go in. I am but one person; upon receiving the initial disclaimer papers from STOKELY VAN CAMP I decided to sit and wait. I cannot afford to put all of my eggs into one basket until I am free and clear to do so. So while it is true I do not yet have a marketable product, it will not stay that way forever.

II. FACTS

Stokely Van Camp is under the illusion that “Gamer Aid is likely to cause confusion with, and to dilute, opposer’s GATORADE mark.” (Pg. 3. Par. 1) Everything from here on are my facts to disprove that claim.

A. Applicant’s use of Gamer Aid.

The use of Gamer Aid is very simple. It’s to Aid the Gamer. GATORADE Has a wide range of drinks, every single one of them designed to help ATHLETES. Weight lifters, baseball players, golfers, simmers, racers, basketball players, hockey players, badminton players, football players, tennis players, virtually every corner of the spectrum in which extreme or even moderate physical activity is required.

Gamer Aid is a drink for the couch potatoes, the Nerds, the ones that feel at home in front of a table playing Dungeons and Dragons and don’t want to go to bed until the board game is finished 8 hours later as the sun rises. The ones that don’t believe that they will sweat blue, orange, red, or green after drinking a drink and putting on a pair of running shoes to knock out a 1-mile sprint. I want the people that play video games for

hours and ignore the fact that their eyes hurt and their brain feels like mush. Gamer Aid wants gamers. Not Athletes. This in of itself is the BRAND Gamer Aid wants to build.

B. Applicant's Admissions Regarding Opposer's Mark.

“Applicant further admits that GATORADE was both a distinctive and famous mark prior to the filing of the Gamer Aid Application.” (Pg.8, Par.1)

If I was a jerk, and for the most part I'm not, I would have requested Stokley Van Camp to PROVE that I hadn't heard of them back when we were doing initial Discovery. But I'm not so here's the schtick. Of course I have heard of them, and boy let me tell you how. They have spent more than \$100,000,000.00 per year in advertising since 1998 (Pg.5, Par 1). If anyone said they haven't heard of it they would either be lying, too young to feed themselves, or Amish. So what does \$100,000,000.00 have to do with Gamer Aid? Everything actually. GATORADE has been advertising so much and so effectively that GATORADE has already created a very specific BRAND for itself, recognized around the world by all types of people. This is very clear when the SURVEY comes into play at the very end of this submission, when there is a comparison of both names with the general public.

C. The Literal Meaning of Each Mark.

Gamer Aid is not a “sports drink” (Pg. 3, Par. 2). It is a drink for those who don't play sports. So what is in a name, specifically the name of GATORADE? It was a drink that was made for the Florida Gators Football team, thus the “GATOR”.

“The team's success progressed even more during the 1966 season, with the Gators finishing at 9–2 and winning the Orange Bowl for the first time ever in the history of the school. Word about Gatorade began to spread outside of the

state of Florida, and both the University of Richmond and Miami of Ohio, began ordering batches of Gatorade for their football teams.”

This can be found on GATORADES website itself –

(<http://www.gatorade.com/company/heritage>)

Now lets talk about “ADE”. **Ade** is a **suffix** used to denote a cold beverage made from water (sometimes **carbonated water**), **fruit juice** (especially **citrus juice**), and **sweetener**.^[1] Examples of its usage are: **lemonade**, **limeade**, **cherryade**, and **orangeade**. Similar beverages that do not contain fruit juice may use the suffix *aid* in their brand names, e.g., **Kool-Aid** and **Flavor Aid**. *Ade* is also used as a suffix in several brand names, including **Lucozade**, **Powerade**, **Accelerade**, **Staminade**, **Sporade**, and **Gatorade**, all of which are marketed as **sports drinks**. Lucozade was the first of these brands; it was first manufactured in 1927 under the name Glucozade.”

This can be found at -

([https://en.wikipedia.org/wiki/Ade_\(drink_suffix\)](https://en.wikipedia.org/wiki/Ade_(drink_suffix))

So now lets talk about the literal definition of what GATORADE is, as it is all a part of branding and pertains to my defense. GATORADE, if taken literally means “An alligators Cold beverage”. Honestly that just sounds silly and we all know Hartshorn (the inventor of GATORADE) was not referring to a giant reptile when he made the stuff.

Instead he was referring to the FLORIDA GATORS. So taking that into context we can

change the literal meaning of GATORADE to this. “A Football teams cold beverage”, in this instance it means a very *specific* football team, the FLORIDA GATORS.

Now lets delve into the definition of another drink, specifically Gamer Aid. The exact definition of “Gamer” given by Websters Dictionary is this **“a person who plays games and especially video or computer games.”**

This is the definition straight from Merriam – Webster dictionary itself. Now lets look at the second word being used, “Aid”. The meaning of “Aid”, again using the Merriam – Webster Dictionary is **“to provide what is useful or necessary”**. Now lets look at the literal translation of Gamer Aid. “ To provide what is useful or necessary to a person who plays video or computer games.” Does this Dilute GATORADES Image? No it does not. Gamer Aid is two words forming the very definition of what it is. GATORADE is one word that isn’t even a word. This is what happens when you search for GATORADE in the dictionary. (please see next page)

The screenshot shows the Merriam-Webster website interface. At the top, there is a navigation bar with tabs for "Dictionary", "Thesaurus", "Medical", "Scrabble®", and "Spanish Central". The "Dictionary" tab is selected. Below the navigation bar is a search bar containing the text "gatorade" and a magnifying glass icon. To the right of the search bar is a red button labeled "SEARCH" with a right-pointing arrow. Below the search bar is a large image of a character's head, likely from a video game. Below the image is a horizontal menu with icons and labels: "Games", "Word of the Day", "Video", "Blog: Words at Play", and "My Faves". Below the menu is the text "Dictionary Spelling Help" in red. Below that is the word "gatorade" in a large, bold font. Below the word is a dashed line. Below the dashed line is the text "The word you've entered isn't in the dictionary. Click on a spelling suggestion below or try again using the search bar above." Below this text is a list of 13 spelling suggestions, numbered 1 through 13:

1. Gotthard
2. tutorage
3. tattered
4. dog-eared
5. Goddard
6. tetrode
7. Tigard
8. Gujarat
9. Gujarati
10. decorate
11. degrade
12. doctorate
13. talk radio

It says “The word you’ve entered isn’t in the dictionary.” It then asks me if I meant to type in GOTTHARD instead. This means that Stokely Van Camp is arguing that one word that does not exist is in a conflict of interest with two words that do. Gamer Aid. So by the very definitions of the two marks there is no similarity at all and that’s a fact.

C. Understanding the GENERAL PUBLIC SURVEY

Behind the Affidavit you will notice a paper that is titled “**ACCORDING TO PEPSI**” This is the survey that the General Public took around the city of Lafayette, LA. There are 310 people of whom took the survey, each one answering 3 different questions. For your convenience I will explain how it works so it will be easier to read. Question 1, which pertains to flavors between both parties is answered with a YES or NO. The answers to questions one are in the first column of each of the ten pages.

Question 2, which asks that based upon the name would you accidentally purchase the wrong drink? All of the answers for this are YES or NO and are in the 2nd column of each of the ten pages. Question 3, which compares the slogan between the two is answered on the 3rd column of each of the ten pages. The answers can either be SIMILAR or DIFFERENT. The 4th and final column was for them to sign with their legal signature as well as put a date on which it was signed.

The totals for each column were then added and labeled at the bottom of each column. THEN all of the column totals were added together to come up with the likelihood of confusion to mistakenly purchase the wrong drink, or in GATORADES words, dilute the brand. I have done the math for you here to keep it simple but feel free to double check my work. The following labeled Pages 1-10 are in reference to the GENERAL PUBLIC SURVEY only.

Page 1 Out of 108 possible ways to mistake the two Brands there were 0 out of 108 possible ways in which customers confused the two. (0% confusion)

Page 2 Out of 108 possible ways to mistake the two Brands there were 0 out of 108 possible ways in which customers confused the two. (0% confusion)

Page 3 Out of 108 possible ways to mistake the two Brands there were 4 out of 108 possible ways in which customers confused the two. (3.7% confusion)

Page 4 Out of 108 possible ways to mistake the two Brands there were 0 out of 108 possible ways in which customers confused the two. (0% confusion)

Page 5 Out of 108 possible ways to mistake the two Brands there were 7 out of 108 possible ways in which customers confused the two. (6.4% confusion)

Page 6 Out of 21 possible ways to mistake the two Brands there were 1 out of 21 possible ways in which customers confused the two. (4.7% confusion)

Page 7 Out of 108 possible ways to mistake the two Brands there were 0 out of 103 possible ways in which customers confused the two. (0% confusion) I had to remove someone as they put “An Asian” As their signature which is not their legal signature. Also in the 2nd column they were confused about the question so they did not answer.

Page 8 Out of 108 possible ways to mistake the two Brands there were 0 out of 108 possible ways in which customers confused the two. (0% confusion)

Page 9 Out of 108 possible ways to mistake the two Brands there were 0 out of 108 possible ways in which customers confused the two. (0% confusion)

Page 10 Out of 108 possible ways to mistake the two Brands there were 0 out of 51 possible ways in which customers confused the two. (0% confusion)

In all there were 932 opportunities in which someone could confuse the two Brands. Out of 932 possible outcomes 920 were not likely to make an accidental purchase. This means that the likely hood of the drink of choice being purchased without confusion is a whopping 98.7%. We are talking about a 99% probability without Gamer Aid even disclosing it's logo, image, brand, and advertising for its target demographic,

and going based purely off a product they cannot see other than that of GATORADE and Gamer Aid being typed in the same font on the survey page. To be clear the General Public has not seen the logo's side by side, or the logo for Gamer Aid at all. Furthermore if statistics were to come into play it would be a 100% success rate in Gamer Aid's favor due to the fact that not a single survey taker put YES on more than one column. This means that at the very worst scenario 2 out of 3 answers still said Gamer Aid and GATORADE are not similar. If we were to go by 2/3rds vote that Congress implements when making decisions that would be that there would be a 100% chance of absolutely no one mistaking the drinks, which makes a lot of sense and here is why. People don't make a purchase off of just one factor in a product. They make a purchase based upon several of them. Other wise these next two companies would not exist as they are.



These should look familiar to you. The logo on the Left is HONDA MOTOR COMPANY. They build cars for people that need cars. The logo on the Right is HYUNDAI MOTOR COMPANY. They also build cars for people that need cars. They serve the exact same purpose – to provide transportation to the public, yes they serve very different demographics. HONDA'S are know for their legendary reliability, HYUNDAI

is know for it's affordability and it's impressive warranties (10 year warranty in fact).

These two exist and the only difference between the logo is that HYUNDAI is

ITALICISED.

The fact that these two are able to exist is proof that customers are not as gullible as STOKELY VAN CAMP is making them out to be, and that dilution isn't a factor. No one would accidentally purchase the wrong BRAND of vehicle because vehicles aren't purchased by their sound, they are purchased by their BRAND. Both HONDA and HYUNDAI built a brand that people know and don't get confused with. Period. It even trickles down to the models for each one, which could be compared to the flavors of the drinks provided by both BRANDS. For example, if the car models were flavors could you tell me which BRAND the ACCORD belonged to? This would also hold true for Gamer Aid as well. When you have flavors labeled "POWER UP", "STRENGTH UP", and "MIND UP" you know you aren't looking at a GATORADE product because it is not part of GATORADE'S line up. That's because GATORADE uses "Fruit Punch", "Orange", and "Lemon-Lime".

But lets just say for arguments sake that comparing drinks to cars is a ridiculous notion because of the cost gap. That's totally fine then, let me get something that isn't as drastic in price difference or as importance as a car when making a purchase. Let's deal with something that costs less. A LOT less, while addressing STOKELY VAN CAMPS issue with the sound of Gamer Aid as per number 6 on Page 14 of **OPPOSERS**

MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT.



McIntosh[®]

These two, believe it or not, are not the same company yet they are both pronounced identically. Not similarly, but IDENTICALLY. Both companies deal with technology, yet they have a different demographic and have been able to coexist because of BRANDING. The top logo is Macintosh, or commonly referred to as a “Mac” or “Apple”, they build computers, laptops, phones, iPods, iPads, and various other things that make noise and can be interacted with. The company on the bottom is McIntosh. They also deal with things that make noise and can be interacted with such as speakers and amps. Both companies have the same identical name. Both companies deal with

technology used to make our lives seemingly happier. And despite sounding virtually identical, both companies have different demographics and coexist.

D. Logo's

GATORADE HAS DONE 98.7% OF THE WORK TO PREVENT CONFUSION, I JUST NEED TO DO 1.3%! And this is for a product that doesn't even exist yet! (Again waiting to see the outcome of this case). Once it does and I start advertising that percentage would be down to 0% confusion simply by releasing the logo. The Logos are so different from each other that I didn't even include them into the Public survey. Please see logo comparisons on the page titled **"WHERE IS THE DILUTION?"** On this page the Logo's for GATORADE are directly compared with those by Gamer Aid and I invite you the reader to make a comparison of your own.

DEFENSE AGAINST LIKELIHOOD OF CONFUSION (Pg. 12-16)

REBUTTAL TO 1.

I acknowledge that GATORADE is indeed famous. I also understand that due to that fact it is granted certain rights of protection through various court dates preceding this one. That being said I have proven with evidence provided that the public would not be confused by the existence of Gamer Aid, and that through the importance of BRANDING any confusion that COULD exist won't.

REBUTTAL TO 2.

"The parties products are closely related and are legally identical in part." (Pg12)

I have no intention of making “Soft drinks” The Merriam Webster dictionary of a soft drink is “a usually carbonated nonalcoholic beverage; *especially* : **soda pop**”.

GATORADE’s drinks are “sports drinks, powders for making the same, and soft drinks.” (Pg 12.)

Gamer Aid is not a sports drink, nor will it be offered in a powder form. The only reason Gamer Aid sought to register for “Energy drinks, soft drinks, soda pops” is because registering for “Energy drinks” alone was not an option. That is what Gamer Aid is, an Energy drink and nothing else.

REBUTTAL TO 3.

If necessary restrictions through specific channels of trade (such as sports venues or anything Athletically related) would be more than welcomed as they are not my target demographic and would possible ease the tension between parties as I would not be selling in GATORADES target demographic.

REBUTTAL TO 4.

At this point we are beating dead horse. The customers are not the same. They aren’t. They aren’t even close. That is a fact that simply can not fact any harder than it already is being Facted. GATORADE wants Athletic people. Gamer Aid wants the people that cringe in fear at the very thought of having to expend the energy just to travel to the kitchen to make a sandwich because they don’t want to move away from the tv because they are just too lazy to do so. The customers. Are not. The same.

REBUTTAL TO 5

There is zero proof that Gamer Aid will be an inexpensive product as it does not yet exist.

There are several factors that can affect the price such as exclusivity, manufacturing process (that is where those \$150 bottles of wine come in to play), advertising, and delivery methods. This is simply a claim that STOKELY VAN CAMP is making based upon it's knowledge of GATORADES manufacturing process and not Gamer Aid.

REBUTTAL TO 6. On Pg.14.

STOKELY VAN CAMPS claim on this is wrong. "Both marks begin with the sound "Gay"" (5TH Sentence on page 14, #6 MARKS ARE CONFUSINGLY SIMILAR). GATORADE does not start with "GAY", it starts with "GATE". GATORADE is comprised of 3 syllables which means it has a beginning, middle, and end. The beginning syllable of GATORADE is actual GATE (beginning), followed by OR (middle), and ending with ADE. When comparing GATORADE to the first word in Gamer Aid, which has just two syllables you are looking at just a beginning and end. GAME (beginning), and ending with ER. Using the comparison of "GAY" between the two is an incomplete comparison and is like saying MOOSE and MOORE sound similar because they start with a MOO and end with an E.

REBUTTAL TO 7.

Confusion is not likely. In fact I have proven that confusion is, if anything, HIGHLY UNLIKELY. Please see the GENERAL PUBLIC SURVEY. All of this without the public even seeing a logo, tasting the drink, being exposed to advertising, seeing the packaging as a whole, and hearing the names of the drinks.

REBUTTAL TO E. (Pg. 15)

This one is really important. “There also is no genuine issue of material fact that applicant’s mark is likely to dilute the distinctive quality of opposer’s mark.” That was from STOKELY VAN CAMP themselves. But assuming that was a mistype and that was not what they meant we can move on to the next section where they talk about being diluted again, as well as asking for a judgment being granted on the grounds of dilution. I have proven from multiple angles ranging from Definitions, to the correct use of syllables, BRAND comparison, target demographics, Logos, intended use of Gamer Aid, the names of the flavors from each BRAND, as well as provided an Affidavit with a GENERAL PUBLIC SURVEY that was taken by the consumers themselves that dilution is not only unlikely, but completely impossible once logo, advertising for target demographic, and BRANDING have been revealed or created by Gamer Aid.

SUMMARY

As all parties are aware this entire suit is about GATORADE claiming that Gamer Aid is “is likely to cause confusion with, and to dilute, opposer’s famous Gatorade mark.” (pg1, paragraph 1 of OPPOSER’S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT). Yet in order for confusion to happen people have to be able to be confused in the first place. If you look at page 3, paragraph 1 under OPPOSER’S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT you will see a response in which I said, “go either way”. Not only do I have the proof that it doesn’t, I have something Stokely Van Camp hasn’t provided at all. Proof. The response of “go either way” was because **at the time** there was no proof.

I had not yet conducted the survey AT THE TIME and I was being honest and fair. People shop by BRAND and this is just GATORADE pointing fingers and saying they are right because they have the money to say they are right, when in fact they have already done 99% of the work to prove that they are wrong. I can make up the difference for 1% easily just by release the logo alone. No studies by GATORADE or STOKELY VAN CAMP have been done, no evidence has been presented that the claim that dilution is actually true. But I went out into the public, did a survey, and came out with proof from the people themselves. 310 people in fact, with a total of 932 answers covering 3 different topics, which is something GATORADE has not done or even come close to doing. This case is ultimately about the public and what they perceive between two brands and I have single handedly removed all of the guess work. These are the facts. They are not similar by definition, they do not have the same demographic, they do not want to represent the same activities (sports players vs video gamers) thus not competing in the same venue such as a Football game or Soccer game etc., the public does not find their slogans to be similar at all, the public does not find the flavors to be similar by name, the public is not confused by the name of the products with the exception of 1% that are gauging a purchase on sound ALONE. So basically buying product as if they were blind. Once introduction every other factor (Logo, advertising, flavors, packaging, bottling (Gamer Aid would use cans and GATORADE is served almost exclusively in plastic bottles or powder), there would not be any confusion at all.

End Note

A BRAND is shorthand for what you are as a company and for what you promise the people. All Gamer Aid wants to do is make it's own promise to its own demographic. Not through stadiums or sporting events that GATORADE already dominates the market in. Gamer Aid wants to be in mom and pop gaming shops, gaming venues, tournaments, and gas stations that will allow it to take up a tiny bit of shelf space. Once a Video Gamer drinks a Gamer Aid product they won't stay with Gamer Aid because they were confused by a name. They will stay with Gamer Aid because GATORADE does not make the drinks they want.

Gamer Aid – It's not for Athletes.

I humbly request that, despite my humorous approach, this article is fully read and Justly weighed by all of the provided evidence and facts to back it's claims, and that summary judgment should be granted on grounds of dilution only if the facts provided as well as the Affidavit and all of the work I have performed with it, are not relevant.

Respectfully Submitted,

JEFF PEARSON

By: /J M Pearson/
Jeff Pearson
508 Saint Camille
Lafayette, LA 70506
(337) 298-6510

Self Represented Applicant

CERTIFICATE OF SERVICE

I, Jeff Pearson, self represented applicant, hereby certify that a copy of the foregoing Applicant's Initial Disclosures is being served upon Patricia S. Smart, an attorney for the opposer, located at 53 West Jackson Street, Suite 432, Chicago, Illinois 60604 on this 10th day of August 2015, by first class mail.

Jeff Pearson

Affidavit

State of Louisiana, County of Lafayette

My current legal name is Jeff Pearson, and my current occupation is Self Employed. I am presently 32 years old, and my current address of residence is 508 Saint Camille, Lafayette, Louisiana 70506.

I declare under oath that the following survey, which compare Gatorade to Gamer Aid in a variety of ways, (according to the concerns of Gatorade), had been taken by the general public and all signatures are in fact signatures of different individuals. There are no duplicate signatures and no one was allowed to sign more than one time. All signatures that were not signed as a legal signature were counted as forfeit and were not added into the final tally. The attached survey is the exact survey that was conducted by over 300 individuals. Each person was asked the same series of questions..

I hereby state that the information above is true, to the best of my knowledge. I also confirm that the information here is both accurate and complete, and relevant information has not been omitted.

Signature of Individual

Jeff Pearson

Date

6/2/2015



Notary Public

William Bertrand

Title And Rank

Notary Public

Date Of Commission Expiry

Lifetime

William Bertrand
Notary Public ID# 78339
Parish of Lafayette
My Commission is for life

ACCORDING TO PEPSI

This product name is too similar to this product name

↓
GATORADE

↓
Gamer Aid

But what do YOU think?

Please answer the following questions on the page provided:

- 1) Could you confuse GATORADE drink flavors such as "Citrus Cooler", "Mango Extremo", and "Cool Blue" with Gamer Aid flavors such as "Power Up", "Strength Up", and "Mind Up"? (yes or no)
- 2) Based upon reading the names above, would you accidentally purchase the wrong drink? (yes or no)
- 3) Do you feel the slogan of GATORADE "Is it in you?" is similar or different to that of Gamer Aid "Not for athletes"? (please answer by putting similar or different)

Question 1 (yes or no) Question 2 (yes or no) Question 3 (similar or different) / Sign and date

| | | | |
|---------------------------------|---------------------------------|----------------------|-----------------|
| NO | NO | different | 1-14-15 |
| NO | NO | different | 1-14-15 |
| No | No | dif. | 1-14-15 |
| NO | no | different | 1-15 |
| NO | NO | Different | |
| NO | NO | Different | |
| No | No | Different | Brandon Redeker |
| No | No | Different | 1-17-15 |
| NO | No | Different | 1-18-15 |
| NO | NO | Different | 1-18-15 |
| NO | No | Different | |
| no | no | different | 1-18-15 |
| No | No | Different | 1/18/15 |
| No | No | Different | 1/18/15 |
| Fuck NO | Are you serious (no) | very different | |
| No | NO | Different | |
| no | no | different | |
| No | No | different | |
| No | No | different | 1/10/15 |
| No | No | totally different | 1/9/15 |
| No | No | So different | 1/10/15 |
| No | No | different | 1/19/15 |
| NO | NO | Very different | 1/19/15 |
| NO | NO | so different | 1/19/15 |
| NO | NO | very different | 1/19/15 |
| No | No | different | 1/19/15 |
| NO | NO | different | 1/19/15 |
| NO | NO | completely different | 1/19/15 |
| NO (IS THIS REALLY A QUESTION?) | NO ... IM NEITHER DEAF NOR DUMB | DIFFERENT YOU FOOL | 1-19-15 |
| NO | NO | DIFFERENT | 1/19/2015 |
| No ?hello? | No | Different | 1-19-15 |
| NO | NO | Different | |
| No | NO | Vastly Different | 1-19-15 |
| No | No | different | 1-19-15 |
| no | no | different | 1-19-15 |

36/36

36/36

36/36

total 108/108

Curtz →

Question 1 (yes or no) Question 2 (yes or no) Question 3 (similar or different) / Sign and date

| | | | | |
|-------|-----|------------------|-----------------------|-------------|
| NO | NO | different | Jack [Signature] | 1-19-15 |
| NO | no | different | Brenda Venable | 1-21-15 |
| N. O. | N O | Different | Christelle | 1-21-15 |
| NO | NO | different | M. [Signature] | 1/23/15 |
| No | No | different | Frank Frank | 1-24-15 |
| NO | NO | different | M. [Signature] | 1-24-15 |
| NO | NO | different | Robert M. [Signature] | 1-23-15 |
| NO | NO | different | [Signature] | 1-23-15 |
| NO | NO | different | [Signature] | 1-23-15 |
| NO | NO | Different | M. [Signature] | 1-23-15 |
| NO | NO | Different | B. [Signature] | 1-23-15 |
| NO | NO | Different | William Bondreep | 1-23-15 |
| NO | NO | different | [Signature] | 1-23-15 |
| NO | NO | DIFFERENT | [Signature] | 1-23-15 |
| NO | NO | DIFFERENT | John Smith | 1-25-15 |
| NO | yes | different!! | Melissa Rusby | 1-25-15 |
| NO | NO | different | Jonathan Martin | 1-25-15 |
| No | Yes | different | Chad Faul | 1-25-15 |
| NO | no | DIFFERENT | [Signature] | 1-25-15 |
| NO | NO | Different | [Signature] | 1-25-15 |
| NO | YES | DIFFERENT | Abraham Jones | 1-25-15 |
| No | NO | Different | Brandon Chapman | 1-25-15 |
| NO | NO | Different! | | |
| NO | NO | different | Robert [Signature] | 1/26/15 |
| No | No | Different | E. [Signature] | |
| NO | NO | Different | A. [Signature] | |
| NO | NO | VERY DIFFERENT! | R. Martel | 1-26-15 |
| No | No | different | Jamie Goodner | 1/26/15 |
| No | No | Different! | Lindsay [Signature] | 1/26/15 |
| no | no | different | Shelbi Bourg | 1/26/15 |
| NO | Yes | different | S. [Signature] | 1/26/15 |
| NO | NO | d. different | [Signature] | 1-26-15 |
| NO | NO | Different | Thayne L. [Signature] | 1/27/15 |
| NO | NO | Different | [Signature] | 28 Jan 2015 |
| NO | NO | DIFFERENT! | [Signature] | |
| NO | NO | lastly different | [Signature] | |

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Total 104/108

Question 1 (yes or no) Question 2 (yes or no) Question 3 (similar or different) / Sign and date

| | | | |
|------------------|---------------|-----------|-------------------------|
| no | yes | different | Jaral Dodet 1-30-15 |
| no | no | different | Zyca Loko 1-31-15 |
| NO | NO | different | Ray 1-30-15 |
| NO | Yes | different | Ann Clee 1/30/15 |
| NO | NO | different | Barton Lazaro 1/30/15 |
| NO | NO | different | John 1/30/15 |
| No | No | different | Brandon Allen 1/30/15 |
| No | No | different | Vault 01/30/15 139 209 |
| No | No | different | 1/30/15 |
| No | No | Different | Russell Young 1/30/15 |
| No | No | different | Zuhar 1/30/15 |
| no no | no | different | Gannon 1/29/15 |
| NO | NO | different | Taylor 1/30/15 |
| No | Yes | different | 1-30-15 |
| No | no | different | 1-30-15 |
| No | No | Different | Brad Johns 1/30/15 |
| NO | No | Different | Sid 1/30/15 |
| NO | No | Different | Cheryl 1/30/15 |
| No | No | Different | 1/30/15 |
| NO | NO | Different | Casidy 1/30-15 |
| No | NO | Different | Belle 1/30/15 |
| No | Yes | Different | 1/30/15 |
| no | yes | different | Citizen X 1/30/15 |
| no | no | different | Emell 1/30/15 |
| No | No | different | 1/30/15 |
| No | No | different | 1/30/15 |
| NO | NO | Different | Nicholas 1/30/15 |
| NO | NO | Different | 1/30/15 |
| NO | NO | Different | 1/30/15 |
| NO | NO | Different | 1/30/15 |
| NO | Yes | different | 1/30/15 |
| NO | Yes | Different | 1-30-15 |
| NO | NO | Different | 1-30-15 |
| NO | NO | Different | 1-30-15 |
| NO | NO | Different | Thomas Browning 1-30-15 |
| 36/36 | 29/36 | 36/36 | Total 101/108 |

Question 1 (yes or no) Question 2 (yes or no) Question 3 (similar or different) / Sign and date

| | | | | |
|---------------|------------------------|-------------|-------------------|----------|
| No | No | Different | n/y | 1-30-15 |
| no | no | different | Young John | 1-30-15 |
| NO | NO | different | John | 1-30-15 |
| NO | NO | different | Peter Dutton | 1-30-15 |
| No | NO | different | John Kirkwood | 1-30-15 |
| NO | NO | different | Ty Castle | 1-30-15 |
| NO | N | different | William Perkins | 2-1-15 |
| NO | Yes | different | Steven M. Bedie | 02/01/15 |
| NO | NO | different | Allyson | 2-1-15 |
| No | No | different | Chad Albert | 2-1-15 |
| No | NO | very diffnt | Jim Pels | 2-1-15 |
| NO | No | different | Burt Jensen | 2-1-15 |
| NO | NO | different | Man Boyce | 2-1-15 |
| No | No | different | | 2-1-15 |
| NO | NO | different | Kelin Smith | 2-1-15 |
| No | No | different | Allyson | 2-1-15 |
| NO | NO | different | Julie Jueve | 2-1-15 |
| NO | NO | different | Richard Donaldson | 2-2-15 |
| NO | no | different | AM | |
| no | no | different | Sabrina Bradley | 2/2/15 |
| NO | no | different | Russell | 2/2/15 |
| NO | NO | different | | 2/2/15 |
| no | no | different | Jeremy George | 2/2/15 |
| NO | NO | different | Michael Morrison | 2/3/15 |
| NO | NO | different | Maybelline | 2-3-15 |
| No | Yes (if I was a dummy) | different | An Asian | 2/3/15 |
| NO | NO | Diff 2 | Chris | 2/3/15 |
| NO | NO | Different | Dr 2 Mh | 2/4/15 |
| NO | NO | different | Leanne Bradshaw | 2/4/15 |
| NO | no | different | William | 2/4/15 |
| NO | no | different | South | 2/4/15 |
| Obviously not | NO | DIFFERENT | Mumum | 2/4/15 |
| NO | ? sound | different | Pat S. Zell | " " |
| no | no | different | Baxley Kyrat | 2/4/15 |
| No | no | different | John Cook | 2/4/15 |
| No | No | different | Phil Parker | 2/6/15 |

HELL NO

Not signed
therefor
Not counted

35/35

33 / (34)
Not counted

35/35

Total 103/104

VIII

Question 1 (yes or no) Question 2 (yes or no) Question 3 (similar or different) / Sign and date

| | | | |
|----|----|-----------------|-----------------------------------|
| No | No | Different | Jim Jones 1/31/15 |
| NO | NO | Different | Shooter 1/31/15 |
| no | No | Different | Di. J. 1/31/15 |
| no | no | Different | Benjamin 1/31/15 |
| NO | NO | Different | John |
| No | No | Different | Adam Amy |
| NO | no | different | Matthew Beard 2/1/15 |
| no | no | Different | Chris Bright 2/1/15 |
| NO | NO | Different | Wgle No |
| no | no | Different | Ronald c. Galvoda |
| NO | NO | different | Leo |
| NO | NO | different | Benjamin Champagne |
| No | No | different | Billy Benesch |
| No | No | different | Matthew 2-5-15 |
| NO | NO | different | no 2/5/15 |
| NO | NO | different | Sean 2/5/15 |
| NO | NO | Different | Lynn Lytham 2/5/15 |
| NO | NO | VERY different | Hell-Castles 2/5/15 |
| NO | NO | Different | 2-5-15 |
| NO | NO | Different | Rebecca Sayer 2/6/15 |
| NO | NO | Different | 2/6/15 |
| NO | NO | VERY DIFFERENT | Matthew 2/6/15 |
| No | no | Most Different | 2/6/15 |
| no | no | Different!!!! | Philip Schirer 2/6/15 |
| NO | NO | Different!! | Matthew P. MacDungell 2/6/15 |
| no | NO | Different!! | Blake Rose 2/6/2015 (332) 296-522 |
| no | no | DIFFERENT | Blake Robichaux 2-5-2015 |
| NO | NO | Difference | Blake Anderson 2-6-15 |
| No | No | Different | 2-6-15 |
| NO | NO | Different | Christal |
| no | no | Different | Kris chamm |
| NO | NO | Super Different | Lauren Dodge |
| No | No | Quite Different | Kevin Dodge |
| NO | NO | Different | 2/6/15 |
| NO | no | Different | Jacques Dale 2/9/15 |

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Total 108/108

| | | | |
|-------------------|------|----------------------|--------------------------|
| Adm NO | NO | Different | AR 2/8/15 |
| No | No | Different | Heather Delcombre 2/8/15 |
| Nope | Nope | Very Different | John 2/8/15 |
| No | No | DIFFERENT | JUSTIN STOLT 2/8/15 |
| NO | NO | DIFFERENT | OS 2/8/15 |
| No | No | different | 2-8-15 |
| NO | NO | Very Different | Jimmy Broussard 2-10-15 |
| NO | NO | Very different | Bill Boudreau 2-10-15 |
| NO | NO | Very different | Charles Hanzog |
| NO | NO | Very different | Caleb Sis Frunk |
| No | No | Very different | Matthew B Ford |
| NO | NO | Not similar at all | Speaker |
| No | No | Different | 2/11/15 |
| No | No | Different | 2/11/15 |
| No | No | Different | 2/11/15 |
| NO | NO | Very different | Seth Haynes 2/12/15 |
| NO | NO | Different* | Iseiah Simon 2/12/15 |
| NO | NO | Very Different | Jonathan Sturm |
| NO | NO | Different | 2/12/15 |
| NO | NO | Different | 2/12/15 |
| No | No | different | Woodman |
| no | no | Different | Joshic Boone |
| NO | NO | different | Alyssa Fournet 2/13/15 |
| no | no | different | Alyssa 2/13/15 |
| NO | NO | completely different | 2/15/15 |
| Not at all | no | Different | 2/15/15 |
| NO | NO | different | 2/15/15 |
| no | no | different | 2/15/15 |
| No | No | VERY DIFFERENT | 2/15/15 |
| No | NO | Hell to the No | 2/15/15 |
| No | No | Different | 2/15/15 |
| No | No | Different | 2/15/15 |
| No | No | Different | 2/15/15 |
| NO | NO | obviously different | 2/19/15 |
| NO | NO | different | 2/19/15 |
| NO | NO | Different | 2-20-15 |

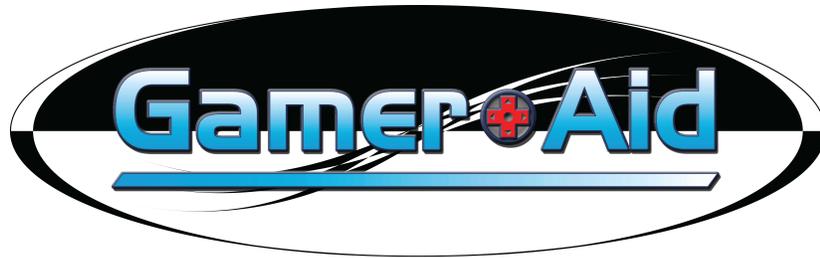
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WHERE IS THE DILUTION?



DO ANY OF THE TOP THREE LOOK SIMILAR TO THE BOTTOM THREE?

