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

Proceeding	91219888
Party	Plaintiff 4Life Trademarks, LLC
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Date	08/31/2015
Attachments	20150831 Opposer 4Life Answer to Applicant Senuvo First Amended Counter-claim.pdf(25529 bytes)

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

4Life Trademarks, LLC

Opposer,

v.

Senuvo, LLC

Applicant.

Opposition No. 91219888

Serial No. 86127647

For the mark: SENUVO

Published for Opposition:
June 24, 2014

Answer to Applicant's First Amended Counterclaim

Opposer 4Life Trademarks, LLC (“4Life” or “Opposer”), by and through its attorneys, submits 4Life’s Answer to the First Amended Counterclaim asserted by Applicant Senuvo, LLC (“Senuvo” or “Applicant”).

We note that Senuvo has confusingly labeled all of its answers to the Notice of Opposition (paragraphs 1-69) as well as additional allegations and arguments (paragraphs 70-75) as “defenses.” To the extent that any of these paragraphs truly constitute defenses, Opposer denies that any of these defenses is applicable or valid.

As to the allegations of the Applicant’s First Amended Counterclaim (paragraphs 76-77), for the convenience of the Board, here is each allegation followed by Opposer’s answer to each allegation.

Applicant’s 1st Counterclaim Allegation (Paragraph 76): “Applicant believes that it will be damaged by Opposer’s United States Trademark Registration No. 4489645 issued February 25, 2014 for the trademark 4LIFE TRANSFER FACTOR RENUVO in International Class 5 for ‘dietary

and nutritional supplements; vitamin, mineral and herbal supplements,’ and hereby counterclaims and petitions the Trademark Trial And Appeal Board to cancel the registration in part.”

Opposer’s Answer to 1st Counterclaim Allegation(Answering Paragraph 76):

Opposer denies that Applicant will be damaged by Opposer’s continued registration of 4LIFE TRANSFER FACTOR RENUVO (Reg. No. 4489645) (the “ ‘645 Registration”), except to the extent that Opposer’s rights in that registered mark (among Opposer’s other rights) may legitimately be used to stop Applicant from using or registering the applied for mark SENUVO as a mark. Opposer also denies that Applicant’s has stated any valid ground to cancel the ‘645 Registration, even in part.

Applicant’s 2nd Counterclaim Allegation (Paragraph 77): “The grounds for partial cancellation of the mark 4LIFE TRANSFER FACTOR RENUVO is that the mark has only been used in commerce with respect to dietary supplements sold through network marketing channels. Accordingly, the 4LIFE TRANSFER FACTOR RENUVO registration is invalid as being too broad for its actual usage and should be modified to more accurately portray the goods as dietary supplements marketed via network marketing. Limiting Opposer’s registration in this manner to more accurately portray the channels through which the goods are actually sold would eliminate any alleged likelihood of confusion between the goods sold under the parties’ respective marks.”

Opposer’s Answer to 2nd Counterclaim Allegation (Answering Paragraph 76):

Opposer denies that Opposer’s goods bearing the mark 4LIFE TRANSFER FACTOR RENUVO® have been sold *only* through network marketing channels, and Opposer affirmatively states that Opposer’s goods bearing that mark have been sold in other channels, such as direct to consumers over the Internet. Opposer also denies that Opposer’s ‘645 Registration is too broad and that partial cancellation of that registration would either be justified

or would do anything to alleviate the likelihood of confusion between Applicant's mark and Opposer's mark. Opposer denies and rejects Applicant's attempt to amend both the Opposer's '645 Registration and Applicant's Application to add a restriction limiting both *to the exact same channel of trade*, namely network marketing. Even if Applicant's proposed amendments were factually accurate (they are not), Opposer denies Applicant's allegation that the nature of network marketing is such that the marketing of products through allegedly separate distribution networks "would eliminate any alleged likelihood of confusion." Opposer denies any remaining allegations in Paragraph 76 not otherwise specifically denied.

**RESERVATION OF RIGHT AS TO ASSERTING
AFFIRMATIVE DEFENSES TO COUNTERCLAIM**

4Life reserves the right to assert affirmative defenses as those become known to it through further investigation, discovery, or otherwise.

WHEREFORE, Opposer respectfully requests that Applicant's petition to cancel the '645 Registration in part be dismissed and that judgment be entered against Applicant.

Respectfully submitted this 31st day of August, 2015.

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Mark: SENUVO
Opposer: 4Life Trademarks, LLC
Type of Filing: Answer to Applicant's First Amended Counterclaim

I hereby certify that this Answer to Applicant's First Amended Counterclaim is being filed electronically with the United States Trademark Trial and Appeal board 37 C.F.R. §2.119.

I hereby further certify that this Answer to Applicant's First Amended Counterclaim is being sent via Express Mail addressed to:

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*Attorney of Record for the Applicant,
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/s/Glenn Spencer Bacal
Signature

August 31, 2015
Date