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Filing date: **06/11/2015**

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

Proceeding	91221547
Party	Defendant Pure Cigar Group Incorporated
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Submission	Answer
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Date	06/11/2015
Attachments	JC Newman v. Pure Cigar CESAR Answer 6-11-15f.pdf(83045 bytes)

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

J.C. NEWMAN CIGAR COMPANY)	
)	
Opposer,)	
)	
v.)	Opposition No.: 91221547
)	
PURE CIGAR GROUP, INCORPORATED)	
)	
Applicant.)	
)	

APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW, Applicant Pure Cigar Group, Incorporated (“PCG” or “Applicant”) and provides its Answer to the Notice of Opposition as follows:

1. Applicant is without information sufficient to admit or deny the allegations contained in paragraph 1, and therefore denies same.
2. Applicant is without information sufficient to admit or deny the allegations contained in paragraph 2, and therefore denies same.
3. Applicant is without information sufficient to admit or deny the allegations contained in paragraph 3, and therefore denies same.
4. Applicant is without information sufficient to admit or deny the allegations contained in paragraph 4, and therefore denies same.
5. Applicant is without information sufficient to admit or deny the allegations contained in paragraph 5, and therefore denies same.
6. Applicant is without information sufficient to admit or deny the allegations contained in paragraph 6, and therefore denies same.

7. Applicant's file history for Serial No.: 86/318,449 speaks for itself. To the extent that this allegation requires a response, denied.

8. Admitted, but denied that this allegation has any bearing on this dispute at this time.

9. Admitted.

10. Denied.

11. Applicant's mark is self-explanatory and therefore this allegation requires no admission or denial. To the extent that it does, denied.

12. Applicant is without information sufficient to admit or deny the allegations contained in paragraph 12, and therefore denies same.

13. Denied.

14. Admitted.

15. Admitted.

16. Admitted.

17. Denied.

18. Denied.

19. Denied.

No admission or denial is required to the WHEREFORE clause, to the extent that it is does, denied.

AFFIRMATIVE DEFENSES

- The Notice of Opposition fails to state a claim for relief.

- Applicant has used CESAR in connection with cigars since at least as early as 1995, and therefore enjoys priority of use for that element of the mark.
- The design of a crown is one of the most widely used design elements in the cigar industry. In fact, a cursory search of the PTO records reveals design code 24.11.01 (crowns closed at the top) is affiliated with 140 marks of record (dead, pending, or registered) in connection with cigars. Design code 24.11.02 (crowns open at top) is affiliated with 196 marks of record (dead, pending, or registered) in connection with cigars.

Dated: June 11, 2015

s/FRANK HERRERA

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent to Opposer by electronic mail, and was served on Opposer by mailing, via U.S. first-class mail, postage paid, said copy on June 11, 2015, to:

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s/FRANK HERRERA
June 11, 2015