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

Proceeding	91222379
Party	Defendant Mecanicos Unidos S.A.
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**UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**Cantarella Bros Pty Limited**

Opposer,

v.

Opposition No. 91222379

**Mecanicos Unidos S.A.**

Applicant,

\_\_\_\_\_)

**ANSWER**

Applicant, Mecanicos Unidos, S.A., a corporation of Colombia, with its principal place of business at Cra. 42 No 33-173, Autopista Sur – Itagui, Medellin, Colombia, owner of the “VICTORIA” mark and the Application Serial No. 86/336,334, for its Answer to Opposer’s Notice of Opposition (hereinafter “Notice”), states and alleges as follows:

1. Applicant lacks knowledge or information sufficient to form a belief about the truth of the assertions in paragraph 1 of the Notice, and thereby denies paragraph 1.
2. Applicant lacks knowledge or information sufficient to form a belief about the truth of the assertions in paragraph 2 of the Notice, and thereby denies paragraph 2.
3. Applicant lacks knowledge or information sufficient to form a belief about the truth of the assertions in paragraph 3 of the Notice, and thereby denies paragraph 3.
4. Applicant lacks knowledge or information sufficient to form a belief about the truth of the assertions in paragraph 4 of the Notice, and thereby denies paragraph 4.
5. Applicant lacks knowledge or information sufficient to form a belief about the truth of the assertions in paragraph 5 of the Notice, and thereby denies paragraph 5.
6. Applicant admits to the assertions in paragraph 6 of the Notice.
7. Applicant admits to the assertions in paragraph 7 of the Notice.

8. See responses to paragraphs 1 through 7 above.
9. Applicant denies the assertions in paragraph 9 of the Notice.
10. Applicant denies the assertions in paragraph 10 of the Notice.
11. Applicant denies the assertions in paragraph 11 of the Notice.

Any allegation of the Notice of Opposition that is not admitted herein is expressly denied. Applicant denies that the Opposer is entitled to the relief sought in the Notice of Opposition.

### **AFFIRMATIVE DEFENSES**

#### First Affirmative Defense: Abandonment

Upon information and belief, Opposer is not using, or has not continuously used, the VITTORIA marks in interstate commerce or otherwise on or in connection with coffee. Upon information and belief, Opposer failed to use the VITTORIA marks in interstate commerce on or in connection with coffee for at least three consecutive years since VITTORIA mark registration No. 2026213 was issued in 1996.

#### Second Affirmative Defense: Fraud

Upon information and belief, Opposer is not using, or has not continuously used, the VITTORIA marks in interstate commerce or otherwise on or in connection with coffee. Upon information and belief, when Respondent submitted its Declaration of Use and Incontestability under Sections 8 & 15 with the USPTO indicating it had continuously used the VITTORIA marks in commerce in connection with coffee, such declaration was false.

#### Third Affirmative Defense: Laches & Acquiescence

Opposer's Notice of Opposition is barred by the equitable doctrine of laches. Laches runs from the time action could be taken against the acquisition of trademark rights that flow from registration of mark. Applicant has been using the mark VICTORIA for grain (including coffee) since at least as early as 1974. Opposer has knowingly allowed Applicant to use

VICTORIA for related goods thereby allowing it to establish distinctiveness in its market and develop its goodwill.

Fourth Affirmative Defense: Priority

Applicant's goods include "electric coffee makers, electric coffee makers for household purposes, non-electric coffee makers, electric coffee grinders, electrical coffee grinders, power operated coffee grinders". Applicant has been using in commerce related goods since at least as early as 1974 including grain grinders.

THEREFORE, the Applicant respectfully requests that the Notice of Opposition be dismissed.

Dated: July 24, 2015

Respectfully submitted,

*/s/ Jesus Sanchelima /*

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Attorneys for Applicant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed via First-Class Mail on this 24 day of July 2015 to:

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By: /s/ Jesus Sanchelima /  
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