

ESTTA Tracking number: **ESTTA310681**

Filing date: **10/09/2009**

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

Proceeding	92046807
Party	Defendant Danone Waters of America, Inc.
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Date	10/09/2009
Attachments	Danone's Answer and Affirmative Defenses to First .pdf (3 pages)(28033 bytes)

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

FIJI WATER COMPANY LLC, and)	
PARAMOUNT INTERNATIONAL)	
EXPORT, LTD.,)	
)	
Petitioners,)	
)	
v.)	Cancellation No. 92046807
)	
DANONE WATERS OF AMERICA, INC.,)	
)	
Respondent.)	
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REGISTRANT’S ANSWER TO FIRST AMENDED PETITION TO CANCEL

Applicant Danone Waters of America, Inc. (“Registrant”), by and through undersigned counsel, hereby answers the First Amended Petition to Cancel filed by FIJI Water Company LLC and Paramount International Export, Ltd. (“Petitioners”) as follows:

Registrant denies that Petitioners will be damaged by Registrant’s continued registration of UNTOUCHED BY MAN. PERFECT BY NATURE., Reg. No. 2,523,167 for “bottled spring water” in Class 32. Registrant is otherwise without information or knowledge sufficient to form a belief as to the truth or falsity of the remaining introductory statements by Petitioners that precede Paragraph 1 of the First Amended Petition to Cancel and, therefore, denies same.

1. Registrant lacks information or knowledge sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 1 of the First Amended Petition to Cancel and therefore denies same.

2. Registrant lacks information or knowledge sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 2 of the First Amended Petition to Cancel and therefore denies same.

3. Registrant admits the allegations set forth in Paragraph 3 of the First Amended Petition to Cancel.

Count I – Abandonment

4. Registrant incorporates by reference its answers to Paragraphs 1-3 above.

5. Registrant denies the allegations in Paragraph 5 of the First Amended Petition to Cancel.

6. Registrant denies the allegations in Paragraph 6 of the First Amended Petition to Cancel.

7. Registrant denies the allegations in Paragraph 7 of the First Amended Petition to Cancel.

8. Registrant denies the allegations in Paragraph 8 of the First Amended Petition to Cancel.

Count II – Lack of Distinctiveness

9. Registrant incorporates by reference its answers to Paragraphs 1-3 above.

10. Registrant denies the allegations in Paragraph 10 of the First Amended Petition to Cancel.

11. Registrant lacks information or knowledge sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 11 of the First Amended Petition to Cancel and therefore denies same.

In response to Petitioners’ prayer for relief, Registrant submits that the instant cancellation action should be dismissed in its entirety on the grounds that Registrant’s continued registration of the mark UNTOUCHED BY MAN. PERFECT BY NATURE., Reg. No. 2,523,167, “continues to be damaging to” or will damage Petitioners.

AFFIRMATIVE DEFENSES

1. The First Amended Petition to Cancel fails to state a claim upon which relief can be granted.

Respectfully submitted,

Dated: October 9, 2009

By: /SET/
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Danone Waters of America, Inc.

CERTIFICATE OF SERVICE

Date: October 9, 2009

The undersigned hereby certifies that a true and correct copy of REGISTRANT'S ANSWER TO THE FIRST AMENDED PETITION TO CANCEL has been served by first class mail, postage prepaid, this 9th day of October 2009 upon Petitioners at the following correspondence address of its counsel of record:

Douglas N. Masters
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 /OAF/
Orrin Falby