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

Proceeding	92050966
Party	Defendant Golden Vision Flower Inc.
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Attachments	answer to second amended petition.pdf ( 4 pages )(146481 bytes )

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

Atlas Flowers, Inc., d/b/a Golden  
Flowers,

Petitioner,

v.

Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.

**ANSWER AND AFFIRMATIVE DEFENSES  
TO SECOND AMENDED PETITION FOR CANCELLATION**

Registrant, Golden Vision Flower, Inc., answers Petitioner's Second Amended  
Petition for Cancellation, and states:

1. Registrant is without sufficient information to admit or deny the allegation.
2. Registrant is without sufficient information to admit or deny the allegation.
3. Denied that Petitioner's rights are superior to Registrant's. Registrant is  
without sufficient information to admit or deny the remaining allegations.
4. Denied.
5. Denied.
6. Denied.
7. Admitted that the registration speaks for itself.
8. Admitted that the deposition transcript of Ms. Huang speaks for itself as well  
as all other testimony to be taken in this matter of individuals with more knowledge  
regarding the specified subject matter.
9. Denied.

10. Admitted that the documents and record speak for themselves.
11. Denied.
12. Registrant is without sufficient information to admit or deny the allegation.
13. Denied.
- (a) Admitted that Ms. Huang's testimony speaks for itself and is limited to her knowledge of Registrant's activity.
- (b) Admitted that Registrant is owned by Ms. Huang's parents and managed by her father. The remaining allegations are denied.
- (c) Admitted that Ms. Huang's testimony speaks for itself and is limited to her knowledge of Registrant's activity.
- (d) Admitted that the specimen speaks for itself. The remaining allegations are denied.
- (e) Admitted that the Statement of Use speaks for itself as well as Registrant's corporate records of its officers.
14. Admitted that Ms. Chuang was not the president of Registrant. The remaining allegations are denied.
15. No response required as paragraph has been stricken.
16. No response required as paragraph has been stricken.
17. Denied.

#### **First Affirmative Defense**

18. If Petitioner has any rights in the mark Golden Flowers such rights are narrow in scope in view of third party uses and registrations directed to marks which include the words Golden and Flowers.

### **Second Affirmative Defense**

19. The inclusion of the term Vision as well as the unique and different design in Registrant's mark creates a distinctly different impression and meaning on the public thereby reducing or eliminating any reasonable likelihood of confusion.

### **Third Affirmative Defense**

20. The parties' historical use of their respective marks confirms that there is no reasonable likelihood of confusion as the parties have harmoniously used their marks simultaneously for over seven years.

### **Fourth Affirmative Defense**

21. Petitioner's request for cancellation should be denied as it was constructively aware of Registrant's registration and use of its marks and failed to take any action to prevent said use. In reliance thereon, Registrant continued to use its marks and has developed substantial goodwill with its mark. Cancellation of its mark would cause damage to Registrant.

### **Fifth Affirmative Defense**

22. Registrant's mark has come to be identified with Registrant's brand of flowers. As a result of its continuous substantial usage the mark is a valuable asset of Registrant and carries considerable goodwill and consumer acceptance of its products sold under the mark. Such goodwill and widespread usage has made the mark distinctive to Registrant.

### **Sixth Affirmative Defense**

23. Petitioner's allegations of fraud fail because Petitioner has shown no intent to deceive by Registrant or its representatives. The testimony in this case, at most, indicates a language barrier that contributed to Registrant's assertions regarding use of its

trademark.

**Seventh Affirmative Defense**

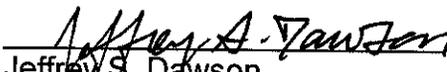
24. Petitioner alleges that it will be seriously injured if Registrant's certificate of registration is allowed to remain of record thereby obstructing its applications for registration. Petitioner further states that Registrant's registration would have been limited to live orchids had it not allegedly included additional goods improperly. However, Petitioner has failed to allege and cannot prove that its applications would result in registrations even if Registrant's certificate of registration were limited to live orchids.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer has been furnished via U.S. Mail on July 14, 2011 to Tal Benschar, 488 Madison Avenue, New York, NY 10022.

**CERTIFICATE OF FILING**

I HEREBY CERTIFY that the foregoing Answer is being filed with the Trademark Trial and Appeal Board through the ESTTA system on July 14, 2011.

  
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