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

Proceeding	92052048
Party	Defendant Dassa Holdings Ltd.
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Attachments	20100806 Respondent's Answer to Petition 92052048.pdf (6 pages)(26932 bytes)

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

SILK WATER SOLUTIONS INC.,

Cancellation No. 92052048

Petitioner,

v.

DASSA HOLDINGS LTD.,

Respondent.



Mark: SILKBALANCE

Reg. No. 3,360,078

Reg. Date: December 25, 2007

**RESPONDENT DASSA HOLDINGS LTD.'S ANSWER AND AFFIRMATIVE
DEFENSES TO PETITION FOR CANCELLATION**

Respondent Dassa Holdings Ltd. (“Respondent”) hereby asserts the following answers and affirmative defenses to Petitioner Silk Water Solutions Inc.’s (“Petitioner”) Petition for Cancellation.

ANSWER

Petitioner’s First Introductory Paragraph: Petitioner Silk Water Solutions Inc., a Canadian corporation with an address at 101-12080 Nordel Way, Surrey, BC, Canada V3W 6Y7, believes that it is or will be damaged by Registration No. 3,360,078 for the term SILK BALANCE in the name of Respondent Dassa Holdings Ltd., an Irish Limited Liability Company with an address at Unit 7 & 10, Moville Business Park, Moville, Co., Donegal, Ireland, and hereby petitions to cancel the same.

Respondent’s Answer: Respondent denies the allegations in Petitioner’s First Introductory Paragraph.

Petitioner’s Second Introductory Paragraph: The application resulting in Registration No. 3,360,078 was filed February 13, 2007 and registered on the Principal Register on December 25, 2007 in Class 1 for “Water purification chemicals for use in swimming pools and spas” and Class 3 for “Cleaning preparations for use in swimming pools and spas.” The application and resulting registration claim 66A as the sole filing basis for both classes of goods.

Respondent's Answer: Respondent admits the allegations in Petitioner's Second

Introductory Paragraph.

Petitioner's Paragraph 1: Respondent's registered mark SILK BALANCE has been abandoned due to nonuse. Therefore, Petitioner alleges that Respondent's registration does not function to identify any of Respondent's goods or to distinguish them from goods offered by others.

Respondent's Answer: Respondent denies the allegations in Paragraph No. 1.

Petitioner's Paragraph 2: Petitioner is the owner of pending U.S. Application Serial No. 77/921769 for the mark SILKBALANCE. This application was filed January 27, 2010 in Class 1 for "Water purification, stabilizing and buffering chemicals, all for use in swimming pools and spas" and Class 3 for "Cleaning preparations for use in swimming pools, spas and plumbing lines" based on actual use since at least as early as December 20, 2007, and in Class 3 for "Absorbent pads for use in swimming pools, spas and plumbing lines" based on intent to use.

Respondent's Answer: Respondent lacks sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph No. 2 and, accordingly, denies same.

Petitioner's Paragraph 3: Petitioner is the owner of pending U.S. Application Serial No.

77/921759 for the design mark . This application was filed January 27, 2010 in Class 1 for "Water purification, stabilizing and buffering chemicals, all for use in swimming pools and spas" and Class 3 for "Cleaning preparations for use in swimming pools, spas and plumbing lines" based on actual use since at least as early as December 20, 2007, and in Class 3 for "Absorbent pads for use in swimming pools, spas and plumbing lines" based on intent to use.

Respondent's Answer: Respondent lacks sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph No. 3 and, accordingly, denies same.

Petitioner's Paragraph 4: Petitioner believes that registration of its U.S. Application Serial No. 77/921769 for the mark SILKBALANCE and/or its U.S. Application Serial No.

77/921759 for the mark



in Classes 1 and 3 will be refused over Respondent's

registration for the mark **SILKBALANCE** in Classes 1 and 3 on the basis that Petitioner's mark(s) so resemble Respondent's mark as to be likely, when used on or in connection with the goods of Petitioner, to cause confusion, or to cause mistake, or to deceive. In addition, the evidentiary effect of Respondent's registration tends to and will likely continue to impair

Petitioner's right to use of its **SILKBALANCE** and/or marks



for goods in Classes 1 and 3. Petitioner is therefore likely to be damaged by Respondent's registration.

Respondent's Answer: Respondent lacks sufficient knowledge or information as to Petitioner's belief that registration of its U.S. Application Serial No. 77/921769 for the mark **SILKBALANCE** in Classes 1 and 3 and/or its U.S. Application Serial No. 77/921759 for the

mark



in Classes 1 and 3 will be refused over Respondent's registration for the mark


SILKBALANCE in Classes 1 and 3. Respondent admits that Petitioner's marks so resemble Respondent's mark as to be likely, when used on or in connection with the goods of Petitioner, to cause confusion, or to cause mistake, or to deceive. Respondent denies that the evidentiary effect of Respondent's registration tends to and will likely continue to impair Petitioner's right to

use of the mark **SILKBALANCE** and/or the mark



for goods in Classes 1 and 3

because Respondent denies that Petitioner has any rights to the use of the mark **SILKBALANCE**

and/or the mark  beyond those rights previously granted by Respondent. Respondent denies that Petitioner is likely to be damaged by Respondent's registration.

AFFIRMATIVE DEFENSES

Further answering the Petition, Respondent pleads the following affirmative defenses:

First Affirmative Defense:

The Petition fails to state a claim upon which relief may be granted.

Second Affirmative Defense:

Petitioner's claim is barred in whole or in part by the doctrine of unclean hands.

Third Affirmative Defense:

Petitioner's claim is barred in whole or in part by the doctrine of waiver.

Fourth Affirmative Defense:

Petitioner's claim is barred in whole or in part by the doctrine of laches.

WHEREFORE, Respondent prays that the Petition for Cancellation be denied in its entirety.

Respectfully submitted,

Dated: August 6, 2010

By: /s/ Lisa A. Iverson

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this **RESPONDENT'S ANSWER AND AFFIRMATIVE DEFENSES TO PETITIONER'S PETITION FOR CANCELLATION** is being electronically filed with the United States Patent and Trademark Office Trademark Trial and Appeal Board today, August 6, 2010.

/s/ Jeremy M. Roe

Attorney for Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the foregoing **RESPONDENT'S ANSWER AND AFFIRMATIVE DEFENSES TO PETITIONER'S PETITION FOR CANCELLATION** was served upon Counsel for Petitioner by first-class mail, postage pre-paid, this 6th day of August, 2010, addressed as follows:

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/s/ Jeremy M. Roe

Attorney for Respondent