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Filing date: **05/04/2011**

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

Proceeding	92052388
Party	Defendant Sulzer Mixpac AG
Correspondence Address	MICHAEL T. MURPHY, ESQ. K&L GATES LLP 1601 K STREET NW WASHINGTON, DC 20006-1600 UNITED STATES chicago.trademarks@klgates.com
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Date	05/04/2011
Attachments	Sulzer Reg 3762233.PDF ( 6 pages )(168456 bytes )

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

In the Matter of Registration No. 3762233  
Filed: December 1, 2008  
For the Mark: Teal Mixing Tip Configuration in International Classes 7, 8 and 10  
Registered: March 23, 2010

Pac-Dent International, Inc.,

Petitioner,

v.

Sulzer Mixpac AG,

Registrant.

Cancellation No. 92052388

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**PETITIONER'S WITHDRAWAL OF CANCELLATION PETITION**

Registrant Sulzer Mixpac AG ("Sulzer" or "Registrant"), by its undersigned counsel, K&L Gates LLP, respectfully submits Petitioner's Withdrawal of Petition for Cancellation of Registrant's mark.

**I.  
INTRODUCTION**

Sulzer filed suit against Petitioner based upon trademark and patent infringement in the United States District Court Southern District of New York ("District Court") in *Sulzer Mixpac USA, Inc. and Sulzer Mixpac AG vs. Pac-Dent International Inc., Pac-Dent, Inc., Pac-Dent International (Suzhou), Ltd. and Daniel Y. Wang*, No. 09-Civ 10430-(DAB) on March 18, 2010 (the "Civil Action").

In response, Petitioner filed a Cancellation against Registrant's Teal Mixing Tip, U.S. Reg. No. 3762233, with the Trademark Trial and Appeal Board ("Board"). Because the outcome of the Civil Action had a bearing on the Cancellation, Registrant filed a Motion to Stay the Cancellation and the Board granted Registrant's motion.

**II.**  
**WITHDRAWAL OF CANCELLATION PETITION**

Petitioner now withdraws its Cancellation Petition. Registrant hereby submits Petitioner's Withdrawal of the Cancellation Petition which is attached as Exhibit A.

**III.**  
**CONCLUSION**

WHEREFORE, Registrant respectfully requests that the Board enter Petitioner's Withdrawal of its Cancellation Petition and dismiss the proceeding in Registrant's favor.

Dated: May 3, 2011.

SULZER MIXPAC AG  
Registrant

By:   
One of Its Attorneys

Michael T. Murphy, Esq.  
Christopher S. Adkins, Esq.  
K&L GATES LLP  
1601 K Street NW  
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(312) 807-4272

**CERTIFICATE OF SERVICE**

Served via Trademark Trial and Appeal Board's electronic system (ESTTA) to the following.

Philip H. Gottfried  
Amster, Rothstein & Ebenstein, LLP  
Attorneys for Petitioner  
90 Park Avenue, 21<sup>st</sup> Floor  
New York, New York 10016  
(212) 336-8000

Registrant by first-class mail sending the same to the following:

Arnold I. Kalman, Esq.  
Law Offices of Arnold I. Kalman  
Attorneys for Petitioner  
245 South Hutchinson Street  
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Respectfully submitted,

Michael T. Murphy, Esq.  
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By   
Michael T. Murphy  
[michael.murphy@klgates.com](mailto:michael.murphy@klgates.com)

Dated: Washington, DC

May 3, 2011

**EXHIBIT A**

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

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PAC-DENT INTERNATIONAL, INC, :  
 :  
 : Petitioner, : Cancellation No. 92052388  
 :  
 : v. :  
 : WITHDRAWAL OF  
 : CANCELLATION PETITION  
 :  
SULZER MIXPAC AG, :  
 :  
 : Registrant. :  
----- -X

Honorable Commissioner for Trademarks  
Washington, D.C. 20231

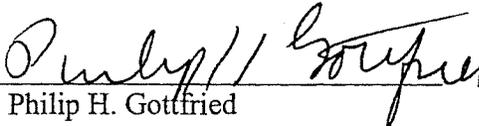
Sir:

The above-identified Petitioner hereby withdraws the above-identified Cancellation Petition, which has currently been suspended in view of the existence of an Action which had been pending in the United States District Court for the Southern District of New York entitled *Sulzer Mixpac USA, Inc. and Sulzer Mixpac AG v. Pac-Dent International, Inc., Pac-Dent, Inc., Pac-Dent International (Suzhou), Ltd. and Daniel Y. Wang*, in view of such Action itself having been terminated.

Dated: New York, New York  
March 17, 2011

Respectfully submitted,

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Philip H. Gottfried

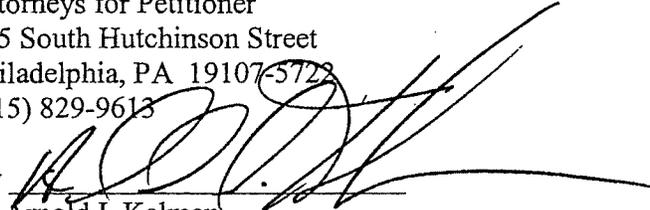
**CERTIFICATE OF SERVICE**

It is hereby certified that the undersigned has this 2d day of May, 2011 served a true and correct copy of the foregoing WITHDRAWAL OF CANCELLATION PETITION on Registrant by e-mail and first-class mail by sending the same to the following:

Michael T. Murphy, Esq.  
K&L Gates LLP  
1601 K Street, N.W.,  
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Respectfully submitted,

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By   
Arnold I. Kalman  
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Dated: Philadelphia, PA  
May 2, 2011