

ESTTA Tracking number: **ESTTA406418**

Filing date: **04/29/2011**

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

Proceeding	92053793
Party	Defendant Freuding USA, LLC
Correspondence Address	FREUDING USA, LLC 9150 WILSHIRE BOULEVARD, SUITE 210 BEVERLY HILLS, CA 90212 UNITED STATES
Submission	Answer
Filer's Name	Dana B. Robinson
Filer's e-mail	dana@danarobinson.com
Signature	/Dana B. Robinson/
Date	04/29/2011
Attachments	answer.pdf ( 5 pages )(90567 bytes )

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

<b>Mark: FREUDING</b>	)	
	)	
<b>FREUDING LABORS GmbH.,</b>	)	<b>Petition No. 92053793</b>
<i>Petitioner,</i>	)	
	)	
<b>v.</b>	)	<b>Registration No. 3273171</b>
	)	
<b>FREUDING USA LLC,</b>	)	
	)	
<i>Registrant/Respondent.</i>	)	
	)	
	)	
	)	
	)	
	)	

**ANSWER TO PETITION FOR CANCELLATION WITH AFFIRMATIVE  
DEFENSES**

Dear Commissioner,

Registrant Freuding USA LLC (hereinafter “Registrant” or “Freuding USA”) hereby submits an Answer to the Petition for Cancellation filed by Freuding Labors GmbH, (hereinafter “Petitioner” or “Labors”).

In regard to Petitioner’s un-enumerated claim in its preamble, Registrant is without knowledge or information sufficient to form a belief as to Petitioner’s belief that it will be damaged by Registrant’s continued registration on the Principal Register.

1. Registrant denies knowledge or information sufficient to form a belief as to the truth of the facts set forth in Paragraph 1 of the Petition.

2. Registrant denies knowledge or information sufficient to form a belief as to the truth of the facts set forth in paragraph 2 of the Petition.

3. Registrant denies knowledge or information sufficient to form a belief as to the truth of the facts set forth in paragraph 3 of the Petition.

4. Registrant admits that it owns U.S. Reg. No 3273171 for FREUDING for the goods and services listed in the registration.

5. Registrant admits that Mr. Lothar Mohr is the sole shareholder of Freuding USA, LLC, and that Mr. Mohr entered into an agreement with Petitioner dated December 5, 2003 (“Cooperation Agreement”), but denies any other implications that Petitioner infers in paragraph 5 of the Petition.

6. Registrant denies the inference that the Cooperation Agreement was properly terminated and that he was divested “of all rights to use of the mark FREUDING in connection with ‘furniture; office furniture; furniture parts; furniture for use in dental offices; dental practice furniture; dental office furniture,’ in International Class 20.”

7. Registrant admits that he filed a 1(a) application for the mark FREUDING, U.S. Reg. No. 3273171 with a first use date of April 2004, but denies all other inferences set forth in paragraph 7 of the Petition.

8. Registrant denies knowledge or information sufficient to form a belief as to the truth of the claim set forth in paragraph 8 of the Petition.

9. Registrant denies the allegation in paragraph 9 of the Petition to the extent that it infers any legal conclusion such as abandonment.

10. Registrant denies knowledge or information sufficient to form a belief as to the truth of the facts set forth the allegation in paragraph 10 of the Petition.

11. Registrant denies knowledge or information sufficient to form a belief as to the truth of the facts set forth in paragraph 11 of the Petition, and further denies that there is harm sufficiently ripe for purposes of this Petition based on a fear that a trademark application might be refused, when refusal has not yet occurred.

As for Affirmative Defenses, Registrant states as follows:

### **AFFIRMATIVE DEFENSES**

1. Petitioner is barred by the doctrine of laches from cancelling Registrant's mark.

2. Petitioner is barred by the doctrine of estoppel from cancelling Registrant's mark.

3. Petitioner is barred by the doctrine of acquiescence from cancelling Registrant's mark.

4. Petitioner has instituted this action in bad faith.

5. The Petitioner is barred by its own unclean hands.

6. The Petitioner's application is invalid or void *ab initio* due to a fraudulent Statement of Use.

7. Petitioner's Petition fails to state a claim upon which the relief sought may be granted.

8. Petitioner is barred by the doctrine of waiver from cancelling Registrant's mark.

9. The Petitioner does not have trademark rights in the United States.

10. The Petition is not ripe for adjudication.

WHEREFORE, Registrant respectfully requests that the Petition be rejected.

Dated: April 29, 2011

Respectfully submitted,

/s Dana B. Robinson

By: \_\_\_\_\_  
Dana B. Robinson, Attorney

**CERTIFICATE OF MAILING**

I hereby certify that service of the foregoing Answer to Petition for Cancellation with Affirmative Defenses was mailed this 29 day of April, 2011, by depositing a true and correct copy of the same for mailing at San Diego, California, postage fully prepaid thereon, addressed to the following:

Deborah A. Feinblum  
Venable LLP  
Attorneys for Petitioner  
2049 Century Park East Ste. 2100  
Los Angeles, CA 90067

/s Dana B. Robinson

---

Dana B. Robinson