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

Proceeding	92054050
Party	Defendant Unimundo Corp
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Date	04/13/2012
Attachments	Answer of Resgistrant Unimundo to the First Amended Petition to Cancel by Univision.pdf (9 pages)(5720311 bytes)

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6 Registrant UNIMUNDO CORPORATION by and through
7 MARCUS FONTAIN, J.D. President and CEO, in pro se

8
9 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
10 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

11 UNIMUNDO CORPORATION,) **Cancellations No. 92054050**
12 a Florida Corporation,) **Registration No. 3889485**
13)
14 Registrant,)
15 vs.) **ANSWER OF REGISTRANT UNIMUNDO**
16 UNIVISION COMMUNICATIONS, INC., a) **CORPORATION, A FLORIDA**
17 California Corporation,) **CORPORATION TO THE FIRST**
18) **AMENDED PETITION TO CANCEL BY**
19) **UNIVISION**
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COMES NOW Registrant UNIMUNDO CORPORATION, by and through MARCUS FONTAIN,
J.D. President and CEO, in pro se and files this ANSWER OF REGISTRANT UNIMUNDO
CORPORATION, A FLORIDA CORPORATION TO THE FIRST AMENDED PETITION TO
CANCEL BY UNIVISION.

Respondents Unimundo Corporation (“UNIMUNDO or Respondent”) and Marcus Fontain both in
his personal capacity and as an officer of UNIMUNDO hereby answer the *“First Amended Petition to
Cancel”* filed on March 26, 2012, by Univision (“Petitioner or Univision”) to Cancel the UNIMUNDO
Mark, in this case as follows:

1 **A. Univision Lacks Standing For Failure to Timely Object to the Issuance of the Mark. Univision**
2 **is also Maliciously Engaging in a Fishing Expedition**

3 1. Respondent is without sufficient information or belief to admit or deny the allegations in
4 ¶ 1 of the Complaint, and thereby deny ¶ 1.

5 2. Respondent is without sufficient information or belief to admit or deny the allegations in
6 ¶ 2 of the Complaint, and thereby deny ¶ 2.

7 3. Respondent is without sufficient information or belief to admit or deny the allegations in
8 ¶ 3 of the Complaint, and thereby deny ¶ 3.

9 **B. The Allegation of that UNIMUNDO Obtained the Mark fraudulently is Blatantly False**

10 4. Registrant admit ¶ 4 to the extent that on March 31, 2010, UNIMUNDO did file Application
11 No: 85003668 with the Declaration of Marcus Fontain in Class 38 based on the use of the UNIMUNDO
12 mark in “Interstate Commerce” since at least March 28, 2010, *two days* prior to the filing and on
13 March 31, 2010, the date of filing for the Mark.

14 5. Registrant admit ¶ 5 to the extent that on July 29, 2010, Marcus Fontain filed a Declaration of
15 Marcus Fontain declaring that the UNIMUNDO Mark had been in use in interstate commerce and in
16 connection with an “Internet Broadcasting Television Network” since at least March 28, 2010, *two days*
17 prior to the filing and on March 31, 2010, the date of filing for the Mark.

18 6. Registrant admits ¶ 6 to the extent that on December 14, 2011, the UNIMUNDO Mark Number
19 3,889,485, was registered by the USPTO.

20 7. Respondent is without sufficient information or belief to admit or deny the allegations in
21 ¶ 7 of the Complaint, and thereby deny ¶ 7.

22 8. Respondent denies the allegations in ¶ 8 of the Complaint, and thereby denies ¶ 8.

23 9. Respondent denies the allegations in ¶ 9 of the Complaint, and thereby denies ¶ 9.

1 10. Respondent denies the allegations in ¶ 10 of the Complaint, and thereby denies ¶ 10.

2 11. Respondent denies the allegations in ¶ 11 of the Complaint, and thereby denies ¶ 11.

3 **C. There is absolutely no Likelihood that the UNIMUNDO Mark Would Cause Confusion with**
4 **Petitioner's Univision Registered Marks**

5 12. Respondent denies the allegations in ¶ 12 of the Complaint, and thereby denies ¶ 12.

6 13. Respondent denies the allegations in ¶ 13 of the Complaint, and thereby denies ¶ 13.

7
8 **D. There is absolutely no likelihood that the UNIMUNDO Mark is likely to Dilute Petitioner's**
9 **Mark and/or Cause Petitioner Tarnishment**

10 14. Respondent denies the allegations in ¶ 14 of the Complaint, and thereby denies ¶ 14.

11 15. Respondent is without sufficient information or belief to admit or deny the allegations in
12 ¶ 15 of the Complaint, and thereby deny ¶ 15.

13 16. Respondent is without sufficient information or belief to admit or deny the allegations in
14 ¶ 16 of the Complaint, and thereby deny ¶ 16.

15 17. Respondent is without sufficient information or belief to admit or deny the allegations in
16 ¶ 17 of the Complaint, and thereby deny ¶ 17.

17
18 **RESPONDENT'S DEFENSES**

19
20 **First Defense**

21 **A. The Complaint by Univision should also be stricken for the reasons herein below:**

22 1. Univision should not be allowed to profit from their failure to object to the word UNIMUNDO
23 Trademark Registration. Univision deliberately failed to object to the issuance of the Mark.

24 2. The registration with the USPTO is [ONLY] for the word UNIMUNDO, Mark No: 3,889,485.

25 3. Univision is impermissibly conflating in its Complaint the logo letter "U."

26 4. The "U" logo UNIMUNDO uses is a Registered Mark in other countries. Therefore, the Board
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1 should refuse to consider or to address the letter “U” logo in these proceedings.

2 5. Petitioner failed to object during the publication period. Therefore, the balance should tilt on
3 behalf of UNIMUNDO because Univision had ample time to object.

4 6. Petitioner’s complaint should be rejected because lacks sufficient facts and is ambiguous.

5 7. Petitioner’s allegations of “Fraud” by the Respondent in registering the UNIMUNDO Mark
6 lack sufficient specificity and evidence to sustain a cause of action and should be dismissed.
7

8 8. The allegation by Univision that “*Prior to commencing this cancellation proceeding*”
9 Petitioner checked the use of the Mark UNIMUNDO on the “*internet search engines and internet*
10 *archives*” is insufficient to sustain a cause of action. Using the internet as an investigative agency is an
11 absurdity and an excuse to litigate. The Internet is illusive and it serves to prove little to nothing.
12

13 9. Petitioner patently failed to provide in its complaint any of the results of the ostensible
14 investigation of the “*internet search engines and internet archives.*”

15 10. Internet Search Engines are not any gauge to prove “Use” of the name of a company in
16 interstate commerce. See Meckatzer Löwenbräu Benedikt Wei KG v. White Gold, LLC, 95 USPQ2d
17 1185, 1187 (TTAB 2010) (“Its allegations are not based solely on “information and belief,” but are also
18 based on the results of an investigation which, petitioner alleges, revealed that respondent was not using
19 its mark on all of the goods listed in its Statements of Use at the time the Statements of Use were filed”).
20 Therefore, the allegation should be dismissed.
21

22 11. Petitioner wants the Board to interpret “Interstate Commence” as to mean the “Internet”
23 and/or “Internet Search Engines” that is not what the law says: “**Interstate commerce**” means trade,
24 traffic, or transportation in the United States — (1) between a place in a State and a place outside of
25 such State, including a place outside the U.S; (2) Between two places in a State through another State or
26 a place outside the U.S; or (3) Between two places in a State as part of trade, traffic, or transportation
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1 originating or terminating outside the State or the U.S. 49 CFR 390.5. According to *Title 18 USCS §*
2 *921* the term "**Interstate or Foreign Commerce**" includes commerce between any place in a State and
3 any place outside of that State, or within any possession of the United States (not including the Canal
4 Zone) or the District of Columbia, but such term does not include commerce between places within the
5 same State but through any place outside of that State.

6
7 12. The allegation of "Fraud" by Univision does **not disprove** the fact that UNIMUNDO was
8 involved in Interstate Commerce at least on March 28, 2010 and specifically on the date of the
9 Application for the Mark UNIMUNDO on March 31, 2010, and as such should it be dismissed.

10 **Second Defense**

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12 1. Petitioner's claim of dilution and confusion is false because at least UNIMUNDO **is in no way**
13 associated with the Hispanic market and **it is not** targeting the Hispanic market in the U.S.

14 2. Univision does not have standing to argue that the UNIMUNDO Mark should be cancelled.

15 3. Univision's continuous attacks are vexatious and baseless.

16 4. The Board also should refuse to expand trademark protection as requested by Univision.

17 5. Univision once again fell short to prove why UNIMUNDO is causing the dilution to the
18 Univision name and again failed to argue why Univision's should prevail.

19
20 6. Univision also failed to demonstrate the likelihood of success despite claims of confusion and
21 dilution of the name Univision by UNIMUNDO or by the use of the letter "U" in a logo design.

22 **Third Defense**

23
24 1. Petitioner is seeking to have the Board expand its current trademark protection to include the
25 words "**uni**" (**one**) and "**mundo**" (**world**) neither of which belongs to Univision; they are simply
26 universal words in both English and Spanish.
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1 2. Univision is attempting to bootstrap to UNIMUNDO not just to the Univision name but its
2 “**Tulip**” logo. Univision and the unique colors of its “**Tulip**” logo cannot be confused with the name
3 UNIMUNDO or its “**U**” shaped logo.

4 3. The Board should refuse to consider these concerns, and instead focus on how to evaluate
5 similar marks under the likelihood of confusion doctrine.

6 4. The Board should also decline to address whether colors may be considered as part of a
7 preexisting trademark in order to receive the same protection.

8 5. UNIMUNDO’s logo is a “**U**” design which consists of solid blue colors, dark and light and
9 with a solid white streak tail-like design. See www.unimundotv.com. See Univision’s logo at
10 www.univision.com. www.wikipedia.org defines the Univision logo as an undefined “**U**.”
11

12 6. Univision’s alleged “**U**” “*tulip*” logo does not look like a “**U**.”

13 7. Univision self-defined its logo as a “*Tulip*,” which looks more like a four part pie all of which
14 are in different colors. The top left quarter is *purple* with a twist to the left; a *green* square on the top
15 right; a *red* part on the lower left hand corner, and *light blue* piece of the pie on the lower right hand
16 corner. These combinations of pie colors cannot be said that they represent the letter “**U**.”
17

18 8. Furthermore, the alleged “**U**” is then cut horizontally and vertically dividing it into a four piece
19 pie consisting of the four (4) color parts: **purple, green, red and blue**.
20

21 7. The UNIMUNDO logo and the Univision logos are completely dissimilar by way of shape,
22 design, color and meaning and any allegation of semblance is false.

23 8. The trademark names of Univision and UNIMUNDO are also very dissimilar.

24 9. Univision also claims that the two names can be confusing because they both have “**Uni**” in it.

25 10. In true and in fact, the word “**Uni**” is a generic name for the word “*one*” or “*uno*” in Latin.

26 11. A *Single one, Unicycle, “Uni”* is also a shortened word for *University. Uni* for sea-urchin in
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1 Japanese restaurants, *uniball Pens* for some pens and pencils, *Uni for Uniform spaces* in mathematics,
2 *Uni Global Union*, an international trade union federation, a *user-network interface*, which is a junction
3 from which a telecommunications services is connected between the service provider and the end user,
4 *Uniradio*, a radio station in San Diego, California and in Tijuana, Mexico.

5 12. The word "**Vision**" is simply generic; the faculty of sight; eyesight: *poor vision* and even
6 as applied in trademarks, as it has been used by *Pearle Vision*; *Plaza Vision Center*; *Uptown Vision*;
7 *Visual Perception*; *Vision* (Timely Comics), *Visions* (Magic-The gathering- a card game). **Vision** or
8 **visions** also refer to: *Visual* perception, interpreting what is seen.

9
10 13. Univision is therefore, not entitled to claim ownership of the generic letter "U" or the also
11 generic words "**Uni**" and/or "**Mundo**."

12
13 14. Univision happens to be a weak name because it uses "**Uni**" which means: **a number**
14 **prefixes are prefixes derived from numbers or numerals one** and "**Vission**" which means: **sight -**
15 **eyesight - view – dream.**

16 Fourth Defense

17
18 1. Under current Supreme Court case law; a logo comparison cannot be made *side-by-side*. It
19 must be made independently done of each other.

20 2. There is also no similarity whatsoever in the products from Univision Television
21 Broadcasting and UNIMUNDO Web Television Internet Video Broadcasting over the internet, identity
22 of retail outlets, or purchasers, or consumers, or subscribers or members.

23
24 3. UNIMUNDO is not trying to pass-off its name, product or services for those of Univision.

25 4. UNIMUNDO **is a only a** Video Sharing, Web TV Channel, Internet Broadcasting WebTV;
26 Internet Streaming for imaginative and creative people sharing the videos they produce.

27
28 5. UNIMUNDO through www.unimundotv.com unlike Univision is Members supported music,

1 movie and documentary WebTV for the uploading of videos by its own members for internet TV
2 consumption much like www.vimeo.com, www.metacafe.com, and www.youtube.com. To this end,
3 compare www.univision.com. There is not one iota of similarities or any intent by UNIMUNDO to
4 benefit from Univision's name or reputation.

5 6. UNIMUNDO's "U" logo is unquestionably substantially different and distinguishable from
6 Univision, "Tulip" logo and the same goes for the word UNIMUNDO.

7 8. There cannot be any confusion by an ordinary individual that would be misled into thinking that
9 they have gone into the world of Univision looking for UNIMUNDO and vice versa.

10 8. *"Univision" is "One Vision," and "UNIMUNDO" is "One World."*

11 9. **There is absolutely no evidence whatsoever that** UNIMUNDO by no means is trying to dilute
12 the good name of Univision other than the vindictive and malicious allegations by Univision.

13 **Fifth Defense**

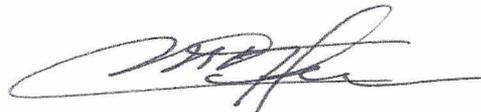
14 1. The Complaint must be rejected because it fails on the merits.

15 **Sixth Defense**

16 Respondent is simultaneously filing a Motion to Strike and Dismiss First Amended Petition to
17 Cancel by Univision. Respondent also reserves the right to assert other defenses in discovery proceeds,
18 including but not limited to ineffective assistance of counsel and any other defenses available to
19 Respondent.

20 Executed Friday, April 13, 2012.

21 Respectfully submitted,

22 

23 UNIMUNDO CORPORATION
24 By: MARCUS FONTAIN, J.D.
25 President and CEO, in pro se
26 marcus@unimundotv.com

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CERTIFICATE OF SERVICE

I MARCUS FONTAIN, on this date have caused to be served upon Petitioner by depositing one copy in the United States Mail, First Class Mail, postage prepaid **ANSWER OF REGISTRANT UNIMUNDO CORPORATION, A FLORIDA CORPORATION TO THE FIRST AMENDED PETITION TO CANCEL BY UNIVISION**, addressed to:

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Executed Friday, April 13, 2012.



Marcus Fontain, J.D.