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

Proceeding	92054617
Party	Defendant Y.Z.Y., Inc.
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Submission	Motion to Amend/Amended Answer or Counterclaim
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Date	10/03/2013
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark Registration No. 3,504,398  
for the mark BIO CLAIRE registered September 23, 2008.

NOUVELLE PARFUMERIE GANDOUR,

Petitioner,

v.

Cancellation No. 92054617

Y.Z.Y., INC.

Respondent.

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**RESPONDENT Y.Z.Y., INC.’S AMENDED ANSWER AND AFFIRMATIVE DEFENSES  
TO PETITION FOR CANCELLATION**

COMES NOW, the Respondent, Y.Z.Y., INC. (“YZY”), who respectfully answers, as amended,<sup>1</sup> the Petitioner’s NOUVELLE PARFUMERIE GANDOUR (“GANDOUR”) petition for cancellation, and states in correspondingly numbered fashion, as follows:

1. Admitted, with the exception of the allegation relating to first use dates which is denied.
2. Denied.
3. Denied.
4. Denied.
5. Denied.
6. Denied.
7. Denied.
8. Denied.

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<sup>1</sup>Permitted by the Board’s orders dated February 8, 2013 and September 17, 2013.

9. Denied.
10. Denied.

**AFFIRMATIVE DEFENSES**

As its affirmative defenses, YZY asserts the following:

1. [Stricken by Board order];
2. GANDOUR cannot assert the petition based upon laches because GANDOUR was aware of YZY's BIO CLAIRE registration since at least as early as the registration date, and unreasonably delayed in enforcing its alleged rights causing prejudice to YZY;
3. GANDOUR cannot assert the petition based upon acquiescence because GANDOUR represented that it would not assert a claim against YZY's registration and use of the BIO CLAIRE mark; the delay between GANDOUR'S representation and the assertion of its alleged rights is not excusable, and the delay has caused prejudice to YZY.
4. GANDOUR cannot assert the petition based upon abandonment, because the alleged rights claimed by GANDOUR are derived from unlawful use of the BIO CLAIRE mark in commerce of the United States.

Respectfully submitted,

/s/Richard S. Ross, Esq.  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by United States Postal Service first class regular mail on this 3<sup>rd</sup> day of October, 2013, and addressed to counsel for the Petitioner as follows:

Scott R. Austin, Esq.  
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/s/Richard S. Ross, Esq.  
Richard S. Ross, Esq.