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

Proceeding	92055501
Party	Defendant Rota Germanium Mineral Water, LLC
Correspondence Address	ROTA GERMANIUM MINERAL WATER LLC ROTA RESORT & COUNTRY CLUB, PO BOX 938 ROTA, MP 96951 UNITED STATES
Submission	Answer
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Signature	/Robert T. Torres/
Date	05/10/2012
Attachments	Cancellation 92055501 Answer.pdf (9 pages)(256321 bytes) Declaration of Service for Answer to Cancellation 92055501.pdf (2 pages)(27616 bytes)

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

In the Matter of Registration No. 4,089,929: NATURAL GERMANIUM WATER FROM ROTA ROTA GERMANIUM WATER FROM ANCIENT VOLCANIC ISLAND & Design
Registration Date: January 2, 2012

PARAMOUNT INTERNATIONAL EXPORT, LTD., Petitioner, v. ROTA GERMANIUM MINERAL WATER, LLC., Registrant.	**Cancellation No. 92055501** **ANSWER**

ANSWER

Comes now, Registrant, Rota Germanium Mineral Water, LLC. ("Registrant"), a company located and doing business at P.O. Box 938, Rota, 96951, Northern Mariana Islands, responding to allegations by Paramount International Export, Ltd. ("Petitioner") of its belief of damage by maintenance of NATURAL GERMANIUM WATER FROM ROTA ROTA GERMANIUM WATER FROM ANCIENT VOLCANIC ISLAND & Design, Registration No. 4,089,929 (the "Rota Design Registration" or "Rota Design Mark") in International Class 32 for "bottled water containing Germanium" ("Registrant's Goods") and hereby answers as follows:

1. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 1, therefore, denies this claim.
2. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 2, therefore, denies this claim.

3. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 3, therefore, denies this claim.
4. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 4, therefore, denies this claim.
5. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 5, therefore, denies this claim.
6. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 6, therefore, denies this claim.
7. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 7, therefore, denies this claim.
8. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 8, therefore, denies this claim.
9. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 9, therefore, denies this claim.
10. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 10, therefore, denies this claim.
11. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 11, therefore, denies this claim.
12. As to paragraph 12, Registrant admits that on January 9, 2011 it filed an application with USPTO for the Rota Design Mark to be used in connection with "bottled drinking water" in International Class 32, receiving application serial number 85/213,625. It denies the remainder of the claim.
13. Registrant admits the claim of paragraph 13.

14. Registrant denies the claim of paragraph 14.
15. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 15, therefore, denies this claim.
16. Registrant denies the claim of paragraph 16.
17. Registrant denies the claim of paragraph 17.
18. Registrant denies the claim of paragraph 18.
19. Registrant denies the claim of paragraph 19.
20. Registrant denies the claim of paragraph 20.
21. As to paragraph 21, Registrant incorporates its answers of Paragraphs 1 to 20 above.
22. Registrant denies the claim of paragraph 22. Registrant's Rota Mark is not likely to cause confusion, mistake, or deception in that consumers are likely to believe Registrant's goods are Petitioner's goods or the goods of a person or entity that is sponsored, authorized or licensed by, or in some way legitimately connected with Petitioner.
    a. Registrant's bottle is cylindrically round with the upper part of the bottle formed into the shape of sea waves and the lower part of the bottle formed into the shape of coconut leaves. Petitioner's bottle is square with no unique added moldings, etchings, or formations.
    b. Registrant's goods are labeled with "Rota" and "Germanium Mineral" whereas Petitioner's goods are labeled "Fiji" and "Artesian Water."
    c. The geographical location of Registrant's goods, Rota, and Petitioner's goods, Fiji, is not likely to be confused. The islands are far in distance; it is not likely to be confused as the same island, neighboring island, or otherwise.

d. Petitioner's goods include an image of a raindrop, which is distinct and unique from Registrant's goods, which does not display a raindrop in any form on its goods.

e. The bottles of Petitioner's goods are marked with two (2) separate labels, one (1) covering the front side of the bottle and the other covering the back side of the bottle. The front label is see-through so as to show through the water and the bottle itself, the back label showing its marks. The bottles of Registrant's goods are covered all the way around with its label. The label does not have any images on the back side to be portrayed.

f. Registrant's goods are marked with two (2) palm leaves in green draping downward from the sky in light blue on the top level where the words "Natural Germanium Water from Rota" in dark blue is and with the word "Rota" in dark blue immediately underneath in the sand in white in the center. The words "Germanium Water" in white at the bottom level in the ocean in sea blue and the words "from ancient volcanic island" in white written underneath. Petitioner's goods are marked with palm leaves draping from the right side of the bottle on its back label, with a hibiscus flower in the bottom level, right hand corner of the front label, and one raindrop on the lower left side of the front label. They are also marked with the words "From the Islands of FIJI," "FIJI" being displayed in all capital letters followed by "Natural Artesian Water" on the front label. The marks of Petitioner's and Registrant's goods are so distinct from each other that it is not likely to cause any confusion.

Attached hereto as Exhibit A is a true and correct copy of photographs of the Registrant's marks, and as Exhibit B a true and correct copy of a photograph of Petitioner's marks.

23. As to paragraph 23, Registrant incorporates its answers of Paragraphs 1 to 20 above.

24. Registrant lacks sufficient information to admit or deny the claim as alleged in paragraph 24, therefore, denies this claim.

25. Registrant denies the claim of paragraph 25. The distinctions of the Registrant's goods and the Petitioner's goods as detailed in paragraph 22 of this answer are such that any possibility of dilution of Petitioner's marks are not likely. Petitioner's marks' uniqueness is in no way compromised by Registrant's marks, because of their distinctions and opposing characteristics.

WHEREFORE, Registrant respectfully request that this petition to cancel be denied.

Respectfully Submitted,

Date:May 8, 2012

ROTA GERMANIUM MINERAL WATER, LLC

By:_____

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EXHIBIT A

Rota
Rota

EXHIBIT B

FIJI
1 LITER

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOND

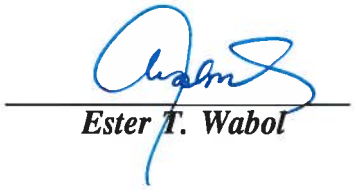
PARAMOUNT INTERNAIONAL EXPORT, LTD., **Petitioner,** **vs.** **ROTA GERMANIUM MINERAL WATER, LLC.,** **Registrant.**	**CANCELLATION NO. 92055501** **DECLARATION OF SERVICE**

I, **Ester T. Wabol**, under penalty of perjury, do hereby declare and certify that I am over the age of 18 and that on May 11, 2012, I caused the **ANSWER** to be served via fax number at (310) 966-8810 and by Certified Mail With Return Receipt to Petitioner's attorney, Danielle M. Criona, at Roll Law Group P.C., 11444 West Olympic, 10th Floor, Los Angeles, CA 90064 in the above-entitled Matter.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief, and that this document was served upon Danielle M. Criona via fax and

Certified Mail With Return Receipt.

Dated this 11th day of May, 2012.



Ester T. Wabol