

ESTTA Tracking number: **ESTTA478666**

Filing date: **06/18/2012**

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

Proceeding	92055593
Party	Defendant Pharmadel, LLC
Correspondence Address	PHARMADEL LLC 178 VENTURE DRIVE SEAFORD, DE 19973 UNITED STATES
Submission	Answer
Filer's Name	Leticia Guerra
Filer's e-mail	tmmiami@fggbb.com
Signature	/Leticia Guerra/
Date	06/18/2012
Attachments	20120618 ANSWER- Cura Hongos.pdf (4 pages)(181343 bytes)

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

In the matter of Registration No. 3,723,508
For the mark: CURA HONGOS and design

MENPER DISTRIBUTORS, INC.,)	
)	
Petitioner)	Cancellation No. 92055593
)	
v.)	
)	
PHARMADEL, LLC,)	
)	
Registrant.)	

ANSWER

Pursuant to 37 CFR § 2.114, Registrant, Pharmadel, LLC, a limited liability company organized and existing under the laws of Delaware, by and through its undersigned counsel, hereby answers the Petition to Cancel U.S. Registration No. 3,723,508 filed by Petitioner, Menper Distributors, Inc. (“Petitioner”), as follows:

1. Registrant is without sufficient information to admit or deny the allegation contained in paragraph 1 and therefore denies same.
2. Registrant is without sufficient information to admit or deny the allegations contained in paragraph 2 and therefore denies same.
3. Registrant is without sufficient information to admit or deny the allegations contained in paragraph 3 and therefore denies same.
4. Registrant admits that Petitioner *was* the owner of the *now abandoned and no longer active* U.S. Trademark Application Serial No. 85/361,067 for HONGOCURA for “fungal medications,” and that said application was filed on June 30, 2011 and denied registration on August 26, 2011 based on, among other things, a likelihood of confusion with Registrant’s mark.

5. Registrant is without sufficient information to admit or deny the allegations contained in paragraph 5 and therefore denies same.

6. Registrant denies that Registrant's mark is substantially similar to Petitioner's mark. Registrant is without sufficient information to admit or deny the remaining allegations contained in paragraph 6 and therefore denies same.

7. Registrant denies the allegations contained in paragraph 7.

8. Registrant denies the allegations contained in paragraph 8.

AFFIRMATIVE DEFENSES

Registrant asserts the following affirmative defenses.

First Affirmative Defense

9. Petitioner fails to state a claim upon which relief may be granted.

Second Affirmative Defense

10. Petitioner lacks standing.

Third Affirmative Defense

11. Upon information and belief, Petitioner is precluded by the doctrine of laches from cancelling U.S. Trademark Registration No. 3,723,508.

Fourth Affirmative Defense

12. Upon information and belief, Petitioner is precluded by the doctrine of acquiescence from cancelling U.S. Trademark Registration No. 3,723,508.

Fifth Affirmative Defense

13. Upon information and belief, Petitioner is precluded by the doctrine of estoppel from cancelling U.S. Trademark Registration No. 3,723,508.

WHEREFORE, Registrant respectfully requests that this Petition for Cancellation be dismissed with prejudice.

Respectfully submitted,

PHARMADEL, LLC

Dated: June 18, 2012

By: /Leticia Guerra/
Leticia Guerra, Esq.

Attorneys for Registrant
Fleit Gibbons Gutman
Bongini & Bianco P.L.
21355 E. Dixie Highway, Suite 115
Miami, FL 33180
T: 305-830-2600
F: 305-830-2605
E-Mail: tmmiami@fggbb.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER was served on counsel for Petitioner via first class mail addressed to Amaury Cruz, Esq., Amaury Cruz, PA, 1560 Lenox Avenue, Suite 207, Miami Beach, Florida 33139, on this 18th day of June.

By: /Leticia Guerra/
Leticia Guerra

FLEIT GIBBONS GUTMAN
BONGINI & BIANCO PL