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

Proceeding	92056992
Party	Defendant Cintron Beverage Group, LLC
Correspondence Address	CINTRON BEVERAGE GROUP LLC 7400 BREWSTER AVENUE PHILADELPHIA, PA 19153 UNITED STATES
Submission	Answer
Filer's Name	Frank A. Reino
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Date	05/07/2013
Attachments	_0507092141_001.pdf(52960 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 3,410,949
For the Mark: CINTRON 21

Registered on April 8, 2008 in International Class 032

VEDOZI INVESTMENT (PTY) LTD., **Petitioner,** **v.** **CINTRON BEVERAGE GROUP, LLC** **Registrant.**	**Cancellation No.: 92056992** **Interlocutory Attorney:** **George Pologeorgis**

CINTRON BEVERAGE GROUP, LLC'S ANSWER TO PETITION FOR CANCELLATION

A. Petitioner's Standing to Cancel

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. The corresponding paragraph of the Petitioner's Petition states conclusions of law to which no response is required. To the extent that a response is required, the same are specifically denied.

B. First Cause for Cancellation – The Mark is Merely a Surname

9. Admitted.

10. Admitted.

11. The Office Actions are writings which speak for themselves and Registrant denies Petitioner's characterization of them.

12. The print out from Registrant's website is a writing which speaks for itself and Registrant denies Petitioner's characterization of it. By way of further answer, Registrant admits "Cintron" is a common Latin surname but denies that the mark is merely a surname because it has become distinctive through Registrant's use.

13. The corresponding paragraph of the Petitioner's Petition state conclusions of law to which no response is required. To the extent that a response is required, the same are specifically denied.

C. Second Cause for Cancellation - Abandonment

14. It is denied Registrant has ceased use of the mark CINTRON. It is admitted that Registrant now uses the accent mark over the letter "O" in the mark on its products. It is denied that use of the accent mark alters the spelling or proper pronunciation of the mark.

15. Denied.

16. Denied. By way of further answer, Registrant uses Cintron 21 on its original flavored energy drink shot and as its web address on the Internet (www.cintron21.com).

17. The corresponding paragraph of the Petitioner's Petition state conclusions of law to which no response is required. To the extent that a response is required, the same are specifically denied.

18. The corresponding paragraph of the Petitioner's Petition state conclusions of law to which no response is required. To the extent that a response is required, the same are specifically denied.

D. Third Cause for Cancellation – Written Consent Not of Record

19. Denied that the Mark consists of the name "Edgardo Cintron."

20. The corresponding paragraph of the Petitioner's Petition state conclusions of law to which no response is required. To the extent that a response is required, the same are specifically denied.

21. It is admitted Edgardo Cintron has not filed a written consent in association with the application.

E. Fourth Cause for Cancellation – Deceptive and/or Deceptively Misdescriptive

22. Admitted.

23. Denied that consumers believe beverages with the number 21 are associated with alcoholic beverages.

24. Denied that the Mark leaves the commercial impression they contain alcohol.

25. Admitted.

26. The corresponding paragraph of the Petitioner's Petition state conclusions of law to which no response is required. To the extent that a response is required, the same are specifically denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Petition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Petitioner has not been and will not be damaged in any amount or manner in connection with the registration of Registrant's trademarks.

THIRD AFFIRMATIVE DEFENSE

The Cintron 21 mark has acquired specific distinctiveness as applied to Registrant's products.

FOURTH AFFIRMATIVE DEFENSE

The CINTRON marks are not used primarily as a surname.

FIFTH AFFIRMATIVE DEFENSE

Registrant has been in continuous and exclusive use of the CINTRON and CINTRON 21 marks in commerce for more than five years.

SIXTH AFFIRMATIVE DEFENSE

Petitioner does not own any rights to the CINTRON mark in the United States and has no intention to distribute products bearing the CINTRON mark in the United States.

SEVENTH AFFIRMATIVE DEFENSE

Use of "21" in the mark CINTRON 21 does not convey to consumers the products are alcoholic beverages.

EIGHTH AFFIRMATIVE DEFENSE

CINTRON 21 only uses the surname of Edgardo Cintron. The mark does not identify or include Edgardo Cintron. Therefore, written consent of Edgardo Cintron is not required.

WHEREFORE, Cintron Beverage Group, LLC respectfully requests that the relief requested by Petitioner be denied and that the Petition be dismissed with prejudice.

Respectfully submitted,

FISHER ZUCKER LLC

Dated: May 7, 2013

By:_____

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CERTIFICATE OF SERVICE

I, Frank A. Reino, certify that on this date, I served a true and correct copy of the Answer to Petition for Cancellation, via first class mail, postage prepaid on counsel for Petitioner at the following address:

Jeremy D. Bisdorf
Jaffe, Raitt, Heuer & Weiss, P.C.
201 S. Main Street, Suite 300
Ann Arbor, MI 48104-2176

Dated: May 7, 2013

Frank A. Reino