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

Proceeding	92057024
Party	Plaintiff Nettadoz Enterprises
Correspondence Address	CHRISTOPHER J FALKOWSKI FALKOWSKI PLLC 50064 DRAKES BAY DRIVE NOVI, MI 48374 UNITED STATES chris@falkowskipllc.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Christopher J. Falkowski
Filer's e-mail	chris@falkowskipllc.com
Signature	/Christopher J. Falkowski/
Date	06/03/2013
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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Nettadoz Enterprises)	Cancellation Number: 92057024
Petitioner)	Mark: CINTRON 21 (word)
v.)	Registration #: 3,410,949
Cintron Beverage Group, LLC)	Registration Date: April 8, 2008
Registrant)	Interlocutory Attorney: Jennifer Krisp
)	

AMENDED PETITION FOR CANCELLATION

Nettadoz Enterprises (“Nettadoz” or “Petitioner”), a Nigerian corporation with offices at 139 Nnebisi road, in Asaba of Delta State Nigeria. Petitioner believes that it will be damaged by the continued registration of the mark disclosed in trademark registration number 3,410,949 (“Registered Mark” or simply the “Mark”) which is registered in international class 32. Petitioner hereby submits this “Petition for Cancellation” (the “Petition”) to cancel the Registered Mark by Cintron Beverage Group, LLC (“CBG” or the “Registrant”):

BASES OF OPPOSITION

1. Registrant’s Mark is primarily merely a surname pursuant to Section 2(e)(4) of the Lanham Act (15 U.S.C. § 1052(e)(4)).
2. Registrant’s Mark is abandoned pursuant to Section 14 of the Lanham Act (15 U.S.C. § 1064).
3. Registrant’s Mark is invalid due to the absence of written consent on the record pursuant to Section 2(c) of the Lanham Act (15. U.S.C. § 1052(c)).

4. Registrant's Mark is invalid because it is deceptive and/or deceptively misdescriptive pursuant to Sections 2(a) and 2(e)(1) of the Lanham Act (15 U.S.C. § 1052(a) and § 1052(e)(1)).

GENERAL ALLEGATIONS

5. Petitioner is a Nigerian business that utilizes the CINTRON mark both as a word mark and a stylized design (collectively "Petitioner's Mark") with a variety of beverage products in Nigeria.
6. Registrant is a Delaware limited liability company with offices at 7400 Brewster Avenue in Philadelphia, Pennsylvania 19153.
7. Petitioner has used Petitioner's Mark in Nigeria for several years.
8. Petitioner has expanded its business operations outside of Nigeria.
9. Petitioner has used Petitioner's Mark outside of Nigeria.
10. Petitioner intends to expand its business operations into the United States.
11. Petitioner has filed an application to register the "CINTRON" trademark (serial number 85949645) on the USPTO's Supplemental Register
12. Petitioner intends to use Petitioner's Mark in conjunction with beverage products in the United States.
13. Pursuant to 37 C.F.R. § 2.111(b), Petitioner believes that it will be damaged by the continued registration of the Registrant's Mark and Petitioner hereby requests the cancellation of the Registrant's Mark.

COUNT I - PRIMARILY A SURNAME

14. The word "CINTRON" is primarily a surname.
15. With respect to several office actions pertaining to related trademark applications, the USPTO has rejected marks that include the text "CINTRON" on the basis that such marks were primarily merely a surname.
16. The word "Cintron" is a common Latin surname.

17. The Registrant has itself publicly acknowledged that the “Cintron” term is taken from a “common Latin surname and in tribute to Edgardo Cintron”.
18. No secondary meaning is associated with Registrant’s use of Registrant’s Mark.

COUNT II – ABANDONMENT

19. Registrant has ceased use of the root text “CINTRON” in its various marks and has instead replaced it with the word “CINTRÓN”.
20. “CINTRÓN” is spelled differently than the Registered Mark.
21. “CINTRÓN” is pronounced differently than the Registered Mark.
22. Registrant has ceased use of the number “21” in conjunction with the root text “CINTRON”.
23. Upon information and belief, Registrant has discontinued use of the Registered Mark with the intent to not resume such use in the future.

COUNT III – WRITTEN CONSENT NOT OF RECORD

24. The Registered Mark comprises a name of a particular living individual named Edgardo Cintron.
25. Edgardo Cintron’s written consent to the Registered Mark is not of record in association with the trademark application that resulting in the registration of the Registered Mark.

COUNT IV – DECEPTIVE AND/OR DECEPTIVELY MISDESCRIPTIVE

26. Under the laws of the United States, a person must be 21 years of age to legally consume alcoholic beverages.
27. The number “21” is strongly associated with alcoholic beverages.
28. The beverage products sold by the Registrant do not include alcohol.
29. The Registered Mark is thus either deceptive or deceptively misdescriptive.

NOW, THEREFORE, Petitioner requests that the registration of the "CINTRON 21" mark be cancelled.

By: /Christopher J. Falkowski/
Christopher J. Falkowski
USPTO Reg #45,989/Michigan Bar # P57019
Attorney for the Petitioner
Falkowski PLLC
50064 Drakes Bay Drive
Novi, MI 48374
Phone (248) 893-4505
Fax (248) 412-4078
E-Mail Chris@Falkowskipllc.com

Date: June 3, 2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Nettadoz Enterprises)	Cancellation Number: 92057024
Petitioner)	Mark: CINTRON 21 (word)
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Cintron Beverage Group, LLC)	Registration Date: April 8, 2008
Registrant)	Interlocutory Attorney: Jennifer Krisp
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PETITIONER’S RESPONSE TO REGISTRANT’S MOTION TO DISMISS

In response to Registrant’s Motion to Dismiss, Petitioner has amended the Petition of Cancellation to include more definitive statements regarding Petitioner’s intentions to conduct business in the U.S. utilizing the CINTRON mark.

10. Petitioner intends to expand its business operations into the United States.
11. Petitioner has filed an application to register the “CINTRON” trademark (serial number 85949645) on the USPTO’s Supplemental Register
12. Petitioner intends to use Petitioner’s Mark in conjunction with beverage products in the United States.
13. Pursuant to 37 C.F.R. § 2.111(b), Petitioner believes that it will be damaged by the continued registration of the Registrant’s Mark and Petitioner hereby requests the cancellation of the Registrant’s Mark.

As indicated in paragraph 11, Petitioner has filed an application (Serial Number 85949645) to register the CINTRON mark on the USPTO's Supplemental Register.

Registrant's Motion to Dismiss acknowledges that Petitioner would have standing. Petitioner would only need to plead that "it has applied to register the mark in the United States." All that is necessary for the Petitioner to prevail on Registrant's Motion to Dismiss is sufficiently pled facts regarding bona fide intentions to use the CINTRON mark in the United States. Petitioner's pending trademark application and the Amended Petition renders Registrant's Motion moot.

Petitioner hereby requests that Registrant's motion be DENIED.

By: /Christopher J. Falkowski/
Christopher J. Falkowski
Falkowski PLLC
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CERTIFICATE OF SERVICE

I, Christopher J. Falkowski, do hereby certify that on June 3, 2013, a true and complete copy of the AMENDED PETITION FOR CANCELLATION, PETITIONER'S RESPONSE TO REGISTRANT'S MOTION TO DISMISS and this CERTIFICATE OF SERVICE has been served upon the Registrant of the above mentioned trademark registration by means of first class mail and e-mail, postage prepaid on counsel for Petitioner at the following address:

Jeffrey Zucker
Frank A. Reino
21 South 21st Street
Philadelphia, PA 19103
Telephone (215) 825-3100
jzucker@fisherzucker.com
freino@fisherzucker.com

By: /Christopher J. Falkowski/
Christopher J. Falkowski
Falkowski PLLC
50064 Drakes Bay Drive
Novi, MI 48374
Phone (248) 893-4505
Fax (248) 412-4078
E-Mail Chris@Falkowskipllc.com

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