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

Proceeding	92058048
Party	Defendant AM Beverage Intermediacao De Negocios Lt Da
Correspondence Address	AM BEVERAGE INTERMEDIAA#O DE NEG#CIOS LT DA RUA JACURICI, 70 JD PAULISTA SA#O PAULO, BRAZIL
Submission	Answer
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Signature	/Julie B. Seyler/
Date	12/02/2013
Attachments	SAMBAZON V AMA WATERS - RESPONDENT'S ANSWER TO CANCELLATION - 12-2-13.pdf(239591 bytes)

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

SAMBAZON, INC.,

Petitioner

v.

AMA WATERS - INDÚSTRIA E
COMÉRCIO DE BEBIDAS LTDA.,¹

Respondent.

Cancellation No. 92058048

RESPONDENT'S ANSWER TO THE CANCELLATION

1. Respondent¹ has insufficient information as to the allegations set forth in Paragraph 1 and therefore denies same.
2. Respondent has insufficient information as to the allegations set forth in Paragraph 2 and therefore denies same.
3. Respondent has insufficient information as to the allegations set forth in Paragraph 3 and therefore denies same.
- ~~4. Respondent has insufficient information as to the nature and purpose of Petitioner's~~
goods and therefore denies the allegations related thereto in Paragraph 4.
5. Respondent denies Paragraph 5.
6. Respondent admits Paragraph 6.
7. Respondent denies Paragraph 7.
8. Respondent denies Paragraph 6, which should be numbered Paragraph 8.
9. Respondent denies Paragraph 7, which should be numbered Paragraph 9.

¹ Respondent AM Beverage Intermediação de Negócios has changed its name to AMA WATERS - INDÚSTRIA E COMÉRCIO DE BEBIDAS LTDA, and the change of name will be filed in the Trademark Office.

AFFIRMATIVE DEFENSES

10. There is no confusion between Petitioner's SAMBAZON Mark and Respondent's AMAZon and AMAZON marks.

11. There is no confusion between Petitioner's AMAZON Marks and Respondent's AMAZon and AMAZON marks.

12. The AMAZON designates a geographic region located in the north of South America and south of the equator.

13. The geographic region known as the AMAZON is located, in part, in the South American countries of Brazil, Ecuador, Colombia, Venezuela, and Peru.

14. The geographic region known as the AMAZON is renowned for natural resources, namely its fruits, plants, flowers and vegetation.

15. Because of its geographic significance, the word AMAZON cannot be exclusively appropriated.

16. Petitioner does not have the exclusive right to use or register AMAZON for "non-alcoholic fruit extracts used in the preparation of beverages, namely acai, cupuacu, cashew, mango, passion fruit, acerola, and guava; dietary supplements; non-alcoholic fruit based beverages; fruit purees; and non-alcoholic fruit based drinks", (hereinafter "Petitioner's Goods").

17. Petitioner has actual knowledge that the word AMAZON cannot be exclusively appropriated for nutritional supplements; frozen processed fruit purees; and non-alcoholic fruit-based drinks and fruit smoothies because it has disclaimed the exclusive right to use AMAZON in Registration No. 4,188,006 for these specific goods.

18. Petitioner has actual knowledge that the trademark AMAZON ENERGY cannot be exclusively appropriated because it disclaimed the exclusive right to use AMAZON ENERGY in Registration No. 2,829,762.

19. Petitioner has actual knowledge that the trademark AMAZON ENERGY cannot be exclusively appropriated because it registered the mark on the Supplemental Register and disclaimed the exclusive right to use ENERGY in Registration No. 3,469,960.

20. Petitioner has actual knowledge that the trademark AMAZON ENERGY cannot be exclusively appropriated because it registered the mark under the provisions of Section 2(f) and disclaimed the exclusive right to use ENERGY in Registration No. 3,614,296.

21. Petitioner has actual knowledge that the website www.amazon.com sells the identical types of goods described in “Petitioner’s Goods” and therefore Petitioner cannot claim it has the exclusive right to use or register AMAZON for Petitioner’s Goods.

22. Petitioner’s AMAZON Marks co-exist with the following marks that include AMAZON as an element thereof for the identical or related goods:

Trademark	Goods	Registration No.
A GIFT FROM THE AMAZON	Dietary and nutritional supplements; dietary and nutritional supplements containing acai; dietary food supplements; Dietary supplements; Nutritional supplements; Nutritional supplements in the form of drinkable gels.	4,104,875
AMAZON MAXIMUM POWER FORMULA #1	Dietary and nutritional supplements; Nutraceuticals for use as a dietary supplement.	3,907,957
AMAZON HERB CO. RAINFOREST BIO-ENERGETICS	Dietary and herbal supplements.	2,871,110
AMAZON PLANET	Nutritional supplements	3,812,015
AMAZON MIST	Non-alcoholic carbonated and non-carbonated soft drinks.	2,004,773
AMAZON	Non-alcoholic non-carbonated soft drinks	2,116,562
AMAZON MIST ICED GUARANA	non-alcoholic non-carbonated soft drinks	2,284,339
AMAZON'S FOUNTAIN OF	Concentrate, ready to drink	3,423,349

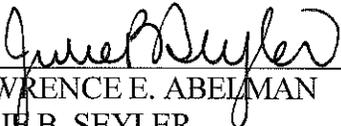
YOUTH BRAZIL GOURMET	and frozen tropical fruit juices; fruit drinks, syrup containing fruit juices for making fruit drinks; soft drinks	
THE AMAZON SECRET	Mineral and aerated waters and other non-alcoholic drinks, namely, drinking water with vitamins and minerals from fruit extracts and energy drinks; flavored water; fruit drink	3,905,766
AMAZON FOREST	Non-alcoholic fruit extracts used in the preparation of beverages; non-alcoholic fruit juice beverages; fruit juices; fruit nectars, non-alcoholic fruit juice beverages; non- alcoholic beverages containing fruit juices; vegetable juices	4,098,176
AMAZON PEPPER	red pepper sauce; chili pepper sauce; dehydrated red pepper; and dehydrated chili pepper. FIRST USE: 19950601	2,143,628
AMAZON PLANET	Breakfast cereals	2,541,433
AMAZON PLANET	Frozen fruit-based confections	3,454,314
AMAZON HONEY	Royal jelly for food purposes; honey; molasses syrup; molasses for food; propolis for food purposes	3,506,174
FLOWING AMAZON	Coffee	3,921,886
AMAZON-RAIN-POWER	Candy	4,088,582

23. Petitioner has not acted in good faith because of its (a) actual knowledge of third party use of AMAZON on identical and/or related goods; (b) constructive knowledge of third party use of AMAZON on identical and/or related goods; and (c) knowledge that the AMAZON is a geographic designation renowned for its natural resources, including fruit, plants, flowers, and vegetation.

24. With this answer to the Cancellation, Respondent is filing a Counterclaim Petition to Cancel AMAZON trademarks owned and pleaded by Petitioner.

WHEREFORE, it is respectfully requested this Cancellation be dismissed with prejudice.

Respectfully submitted,



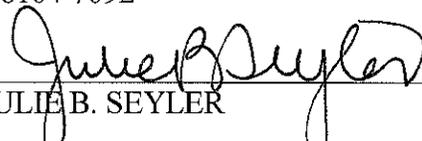
LAWRENCE E. ABELMAN
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **ANSWER TO THE CANCELLATION** was filed by first class mail, postage prepaid this 2nd day of December, 2013 upon the following:

Kevin S. Costanza, Esq.
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Seattle, Washington 98104-7092



JULIE B. SEYLER