

ESTTA Tracking number: **ESTTA631464**

Filing date: **10/07/2014**

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

Proceeding	92058412
Party	Defendant Randy Appell
Correspondence Address	RANDY APPELL 11 COLGATE LANE WOODBURY, NY 11797 UNITED STATES rappell@gmail.com
Submission	Answer
Filer's Name	Randy Appell
Filer's e-mail	rappell@gmail.com
Signature	/s/ Randy Appell
Date	10/07/2014
Attachments	final answer with proof of service.pdf(140061 bytes)

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

SPARTAN BRANDS, INC.	)	<u>ANSWER</u>
)	
Petitioner,	)	Cancellation No. 92058412
)	
v.	)	Registration No. 4,403,243
)	
RANDY APPELL,	)	Mark: ICEDC
)	
Respondent.	)	Registration Date: September 17, 2013

The Respondent, **RANDY APPELL**, as and for his Answer hereby respond and allege as follows:

FIRST: Deny having knowledge or information sufficient to form a belief

as to each and every allegation set forth in paragraphs enumerated "1", "3", "4"

SECOND: Deny each and every allegation set forth in the paragraphs enumerated "5" through "13"

AS AND FOR A FIRST SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

THIRD: The Petitioner is barred from this cancellation application based on the doctrine of LACHES

AS AND FOR A SECOND SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

FOURTH: The Petitioner is barred from this cancellation application based on the doctrine of EQUITABLE ESTOPPEL.

AS AND FOR A THIRD SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

FIFTH: The Petitioner is barred from this cancellation application based on the doctrine of ACQUIESCENCE

AS AND FOR A FOURTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

SIXTH: The Petitioner is barred from this cancellation application in so much as the application is PREMATURE and the Petitioner lacks STANDING to present this cancellation application

AS AND FOR A FIFTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

SEVENTH: The Cancellation Application should be denied in its entirety with an award of costs in so much as Respondent filed and obtained a valid registration bearing registration No. 4,403,243 for a Trademark for the term ICEDC for use in ‘concentrates, syrups or powders used in the preparation of soft drinks.’ This Mark is, has been, and will continue to be used in commerce as that term is defined in 15 U.S.C. § 1127.

WHEREFORE, the respondent, RANDY APPELL, demands judgment dismissing the Petition herein together with the costs and disbursements necessary to oppose this merit less Petition.

DATED: OCTOBER 6, 2014

BY: /s/ Randy Appell
RANDY APPELL
11 Colgate Lane
Woodbury, New York, 11797
Rappell@gmail.com

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

SPARTAN BRANDS, INC.	)	<u>CERTIFICATE OF PERSONAL SERVICE</u>
)	
Petitioner,	)	Cancellation No. 92058412
)	
v.	)	Registration No. 4,403,243
)	
RANDY APPELL,	)	Mark: ICEDC
)	
Respondent.	)	Registration Date: September 17, 2013

STATE OF NEW YORK
COUNTY OF NEW YORK

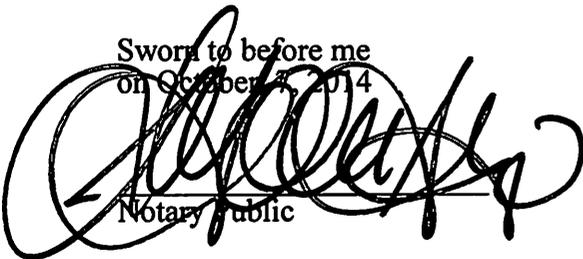
Troy James, being duly sworn, says:

I am not a party to the action; I reside at Brooklyn, New York, and I am over 18 years of age.

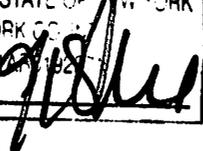
On October 7, 2014, I served the within ANSWER by personally delivering a copy to TARTER KRINSKY and DROGIN LLP at 1350 Broadway, New York, New York, 10018. More particularly the within ANSWER was left with Mr. Ryan Kelly, whom was the receptionist at the above location



TROY JAMES

Sworn to before me
on October 7, 2014


Notary Public

STEFANIE ARROYO
NOTARY PUBLIC STATE OF NEW YORK
NEW YORK COUNTY
LIC. #02111827
COMM. EXP. 

STATE OF NEW YORK
COUNTY OF [illegible]

[illegible]

[illegible text]

COMM. EXP. [illegible]
LIC. # [illegible]
NEW YORK
NOTARY PUBLIC STATE OF NEW YORK
STEFANIE ARROYO