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Filing date: **09/29/2014**

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

Proceeding	92059949
Party	Defendant Hydrox Chemical Company, Inc.
Correspondence Address	HYDROX CHEMICAL COMPANY INC 825-B TOLL GATE ROAD ELGIN, IL 60123 UNITED STATES
Submission	Motion to Suspend for Civil Action
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Signature	/Peter S. Stamatis/
Date	09/29/2014
Attachments	Motion to Suspend - Hydrox Optimates with Attachments.pdf(4549855 bytes)

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

DIVERSEY, INC.)	
)	
Petitioner,)	Cancellation No. 92059949
)	Registration No. 939,378
v.)	Mark: HYDROX OPTIMATES
)	CHEMICALS & DESIGN
HYDROX CHEMICAL CO.,)	
)	
Registrant.)	

**MOTION TO SUSPEND PROCEEDINGS IN VIEW OF PENDING CIVIL
ACTION PURSUANT TO TRADEMARK RULE 510(a)**

Registrant, Hydrox Chemical Company, by its attorneys Peter S. Stamatis and Steven S. Shonder, pursuant to Trademark Rule 510(a), 37 CFR §2.117, hereby moves to suspend these proceedings; and, in support thereof, states as follows:

1. On September 30, 2014, Hydrox Chemical Company (“Hydrox”) filed suit against Diversey Inc. alleging violations of Hydrox’s trademark rights to three of its registered trademarks. That suit, styled *Hydrox Chemical Company, Inc. v. Diversey, Inc.*, Case No. 13 CV 07024, is currently pending before the Honorable Judge Ronald Guzman in the United States District Court for the Northern District of Illinois (the “Civil Action”). A copy of the complaint in the Civil Action is attached hereto as Exhibit A.
2. In the Civil Action, Hydrox requests, *inter alia*, that the United States District Court for the Northern District of Illinois Court declare that the actions of

petitioner Diversey, Inc. ("Diversey"), constitute infringement of Hydrox's valid trademark "Hydrox Optimates Chemical," which bears Registration No. 939,378 (the "'378 Registration"). In its Answer, Diversey denied that the registration of Hydrox's trademark "Hydrox Optimates Chemical," Registration No. 939,378 was valid. A copy of Diversey's Answer to the complaint in the Civil Action is attached hereto as Exhibit B.

3. In its Petition for Cancellation, Diversey claims that "it is and/or will be damages [sic] by the continued registration of the '378 Registration" and bases those claims on Hydrox's alleged abandonment of the trademark.

4. The Civil Action accordingly involves issues that are involved in this proceeding, to wit: whether the registration of Hydrox's trademark "Hydrox Optimates Chemical," Registration No. 939,378 is valid.

5. Trademark Rule 510(a), provides for the suspension of proceedings whenever it:

come[s] to the attention of the Trademark Trial and Appeal Board that a party of parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board proceeding.

37 CFR §2.117(a).

6. Further, "the civil action does not have to be dispositive of the Board proceeding to warrant suspension, it need only have a bearing on the issues before the

Board." *New Orleans Louisiana Saints LLC and NFL Properties LLC v. Who Dat?, Inc.*, 99 U.S.P.Q.2D (BNA) 1550, 1552 (2011).

7. The pending Civil Action before Judge Guzman will have a bearing on the issues before the Board because it involves the same parties and the precise mark at issue here, suspension of the instant action is appropriate. This is particularly true because decisions of the District Court regarding these issues will be binding upon this board. *Id.*

WHEREFORE, Registrant, Hydrox Chemical Company, respectfully requests that this Honorable Court enter an order suspending the instant matter pending resolution of the Northern District Litigation.

Dated: September 29, 2014
Chicago, Illinois

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Exhibit A

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

HYDROX CHEMICAL COMPANY, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case no.: 13 CV _____
)	
DIVERSEY, INC.)	Plaintiff demands trial by jury
)	
Defendant.)	

COMPLAINT

NOW COMES plaintiff, HYDROX CHEMICAL COMPANY, INC., by its attorneys, Peter S. Stamatis and Steven S. Shonder, and for its Complaint against Diversey, Inc., states as follows:

Introduction

Plaintiff, Hydrox Chemical Company, Inc. is the victim of what amounts to a corporate identity theft. Accordingly, it brings this civil action for trademark infringement under the Federal Trademark (Lanham) Act, 15 U.S.C § 1114(1); unfair competition and false designation of origin under the Lanham Act, 15 U.S.C. §1125(a); common law trademark infringement; and common law unfair competition. It seeks preliminary and permanent injunctive relief; an accounting and award of Defendant's profits; compensatory, treble, and/or statutory damages; an award of costs and

attorneys' fees; and other such further relief as this Honorable Court deems appropriate.

The Parties

1. HYDROX CHEMICAL COMPANY, INC. ("Hydrox" or "Plaintiff"), is an Illinois Corporation with its principal place of business in Elgin, Illinois.

2. DIVERSEY, INC. ("Diversey" or "Defendant") is a Delaware Corporation with its principal place of business in Sturtevant, Wisconsin.

Jurisdiction and Venue

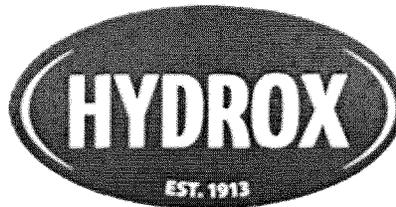
3. This Court has subject matter jurisdiction over Hydrox's federal claims under 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338(a). The Court has jurisdiction over Hydrox's state law claims under 28 U.S.C. §1332, as there is diversity of citizenship between the parties and the amount in controversy exceeds, exclusive of interest and costs, the sum of seventy-five thousand dollars (\$75,000).

4. This court has personal jurisdiction over Defendant because Defendant does business in this district and has imported, distributed, offered for sale, sold and/or shipped products to persons within this District, regularly transacts and conducts business within this District, and Defendant otherwise has made or established contacts within this District sufficient to permit the exercise of personal jurisdiction.

Background Information

Hydrox

5. Hydrox is one of the nation's oldest manufacturing companies and the patent originator of the hydrogen peroxide solution. Since its original founding some one hundred (100) years ago, Hydrox has expanded its product line under the "Hydrox" name from a single one – hydrogen peroxide – to over one hundred (100), including disinfectants, cleaners, antiseptics, beauty products and a surgical instrument care line. Today, Hydrox is one of the few Minority Owned Business (MBE) certified manufacturers of health and beauty products in the United States.



6. The Hydrox name is well known in the medical, healthcare and beauty industries. Hydrox has received various awards and recognitions for excellence. As a result of plaintiff's long-term and widespread use of the Hydrox mark in the United States via the Internet, print and other coverage, the Hydrox mark enjoys a high degree of consumer recognition. Hydrox is a famous mark.

7. Hydrox sells its products directly and through distributors, including a major distributor located in Mundelein, Illinois (the "Mundelein Distributor").

8. Over the past century, Hydrox has continuously used the highly distinctive trademark "Hydrox" in the sale of its products. The Hydrox brand is widely recognized in the public as an indicator of Hydrox's products. As a result of Hydrox's extensive use of its name, Hydrox has built and owns enormously valuable goodwill.

9. The market for hydrogen peroxide and hydrogen peroxide-based products is highly competitive. Hydrox competes against large, multinational companies for sales of products and must maintain a strong brand to compete effectively. And, with the strength of its mark, Hydrox has developed a strong market presence over the years, achieving ever increasing sales and market presence.

10. Hydrox has developed common law rights in its name, trademarks and logos through its extensive use thereof. Also, Hydrox has owned trademark registration number 0939378 for Hydrox Optimates Chemicals and the associated logo since 1971:



See Exhibit 1.

11. Hydrox has applied for federal trademark registration for its mark “Hydrox Laboratories,” serial number 85548295:

HYDROX LABORATORIES

See Exhibit 2.

12. And for the “Hydrox” logo under serial number 85548268:



See Exhibit 3. The above trademarks are collectively referred to as the “Hydrox Trademark.”

13. All of the foregoing registrations and pending applications are valid, subsisting and in full force and effect.

Defendant’s Knowledge of and It’s Initial Attempts to Acquire the Hydrox Trademark

14. In or about June 2007, during U.S. Pan Asian American Chamber Of Commerce Conference, (USPAACC), James Costa (“Costa”), V.P. Global Procurement for PepsiCo, not a party to this action, introduced Hydrox’s President and CEO, Kappana Ramanandan (“Ramanandan”) to Diversey (then, “JohnsonDiversey”) and to

some of its employees. Costa, PepsiCo and USPAACC were promoting Minority Business Development.

15. Costa and Ramanandan discussed Hydrox developing a hydrogen peroxide-based cleaner for washing/disinfecting Pepsi bottles before filling, to clean/eliminate bacterial contamination. Ramanandan offered a hydrogen peroxide-based cleaner as an alternate to bleach, which can be considered hazardous.

16. Costa informed Ramanandan that Diversey and TetraPak (a company located in Denton, TX) were two of PepsiCo's biggest suppliers and packer of juices. Costa suggested to Ramanandan that he contact Alex Croy, plant manager of TetraPak to discuss use of a peroxide-based cleaner for PepsiCo. Several discussions followed.

17. In or about June, 2007, a representative of Diversey contacted Mr. Ramanandan and inquired into various Hydrox hydrogen peroxide products. Ramanandan promised that he would send Diversey information about Hydrox including its capabilities and its products.

18. In or about early July, 2007, Hydrox's Chief Operating Officer John Polydoros ("Polydoros") sent the promised information to Defendant's Doug Robertson ("Robertson"), which included information about Hydrox and its products, as well as an overview of Hydrox's capabilities. *See* Exhibit 4.

19. Diversey, however, did not order any product from Hydrox. Rather, it now appears that Diversey designed to misappropriate the Hydrox name.

20. Over a year later, on or about September 10, 2008, Diversey obtained ownership through an assignment per the *Canadian* Patent and Trademark office, of the a Canadian trademark of the name “Hydrox.” The assignment was registered on November 19, 2008, *nunc pro tunc* to October 30, 2007. *See* Exhibit 5.

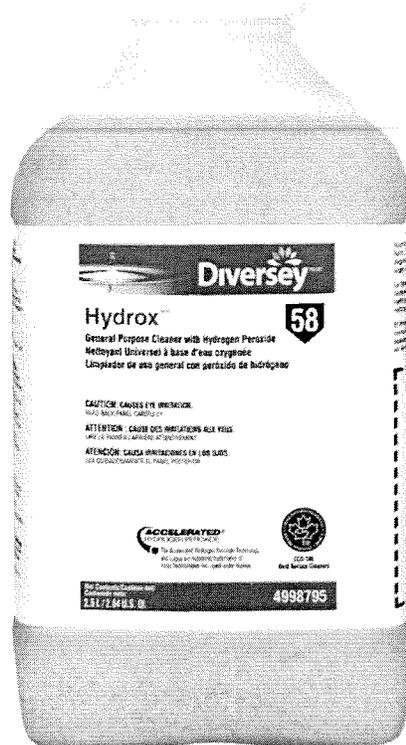
21. On October 2, 2009, Defendant also applied for trademark protection of the Word Mark for “Hydrox” with the United States Patent and Trademark Office (PTO). *See* Exhibit 6.

22. On December 11, 2010, the PTO declared that application to have been “abandoned.” The PTO now considers that application “dead.” *Id.*

23. Several months later, in or about May, 2011, a representative of Diversey telephoned Ramanandan. In that conversation, the representative, an individual believed to be John Rote (“Rote”), inquired as to whether the Hydrox Company was for sale. Ramanandan replied that it was not. Rote then offered Ramanandan \$10,000 for a license to use the Hydrox Trademark indefinitely on one or more of Defendant’s products. Ramanandan refused to license the Hydrox Trademark to Defendant.

The Infringement

24. In or about June, 2013, Hydrox discovered that Diversey is selling a cleaner it calls “HYDROX General Purpose cleaner with Hydrogen Peroxide” in the United States including in the Northern District of Illinois, through the Mundelein Distributor. *See* Exhibits 7 and 8 respectively.



25. Hydrox has not consented to, sponsored, endorsed, or approved of Defendant's use of the Hydrox Trademark or any variations thereof in connection with the manufacture, marketing, or sale of any of Defendant's products or services.

26. Given the history as set forth above, it is clear that Defendant's actions are willful and reflect an intent to confuse consumers and/or profit from the goodwill and consumer recognition associated with Plaintiff's mark.

27. As of the date of this Complaint, Defendant continues to use the Hydrox Trademark without authorization, and continues to promote, distribute, offer for sale, and sell products bearing the Hydrox Trademark and consequently, continues to engage in trademark infringement and unfair competition.

28. Defendant's misappropriation of the Hydrox Trademark is likely to create confusion as to the source of the product(s) bearing the Hydrox Trademark. Hydrox and Diversey compete in the same market and/or consumers are likely to believe that Hydrox is expanding into the market of Diversey's infringing product. Indeed, Hydrox products and Diversey products are distributed through the same or similar channels of distribution and are targeted at many of the same customers.

29. Consumers are, therefore, likely to believe that Defendant's products that bear the Hydrox Trademark, including the identified cleaner that contains hydrogen peroxide, are associated with Plaintiff, when that is not the case. Such confusion is likely to damage Hydrox's ability to interact with potential customers and achieve sales of actual Hydrox products and consequently, reduce Hydrox's ability to sell its products.

30. Further, Defendant's unauthorized use of the Hydrox Trademark places beyond Hydrox's control the quality of products bearing their trademark. Any consumer dissatisfaction with the infringing product is, therefore, likely to damage Hydrox's reputation and good will in the marketplace.

31. Defendant's aforesaid conduct is causing immediate and irreparable injury to Hydrox and to its goodwill, reputation, and ability to profit from the sale of its products, and will continue both to damage Hydrox and to deceive the public unless enjoined by this Court. Hydrox has no adequate remedy at law.

COUNT I

FEDERAL TRADEMARK INFRINGEMENT (15 USC § 1114)

32. Hydrox adopts and realleges the allegations set forth in paragraphs 1-27 as though fully set forth herein.

33. Defendant's distribution, marketing, promotion, offering for sale, and sale of goods that bear the Hydrox Trademark is likely to cause confusion, mistake, or deception as to the source, affiliation, sponsorship, or authenticity of Defendant's goods. Diversey has literally stolen Hydrox's name. As a result of Defendant's unauthorized use of trademarks that are identical to and/or confusingly similar to the Hydrox federally registered mark, the public is likely to believe that Defendant's goods have been manufactured, approved by, or are affiliated with Hydrox. Consequently, Defendants' illegal conduct limits Hydrox's ability to gain revenue through the sale of products bearing the Hydrox's own registered trademark.

34. Defendant's unauthorized use of the Hydrox Trademark falsely represents Defendant's products as emanating from, or being authorized by, Hydrox and places beyond Hydrox's control the quality of products bearing the Hydrox Trademark. It also placed beyond Hydrox's control the overall message associated with the Hydrox Trademark and products bearing the Hydrox Trademark.

35. Defendant knows of and has recognized Hydrox's ownership of the Hydrox Trademark. In fact, Defendant has offered to purchase or license the mark. Defendant's infringement of the Hydrox Trademark is willful, intended to reap the benefit of the goodwill of Hydrox, and violates Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

36. As a result of Defendant's wrongful conduct, Hydrox has suffered, and will continue to suffer, substantial damages. Under 15 U.S.C. § 1117(a), Hydrox is entitled to recover damages, which include any and all profits Defendant made as a result of their wrongful conduct.

37. In addition, because Defendant's infringement of the Hydrox Trademark was willful within the meaning of the Lanham Act, the award of actual damages and profits should be trebled pursuant to 15 U.S.C. § 1117(b). In the alternative, Hydrox is entitled to statutory damages for each counterfeit mark, under 15 U.S.C. § 1117(c).

38. Hydrox is also entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a). Hydrox has no adequate remedy at law for Defendant's wrongful conduct because, among other things, (a) Hydrox's trademark is unique and valuable property the damage to which would be irreparable, (b) Defendant's infringement constitutes harm to Hydrox such that Hydrox could not be made whole by any monetary award, (c) if Defendant's wrongful conduct is allowed to continue, the public is likely to become further confused, mistaken, or deceived as to the source, origin, or authenticity of the

infringing materials, and (d) Defendant's wrongful conduct, and the resulting damage to Hydrox, is continuing.

39. Hydrox is also entitled to an order compelling the impounding of all infringing materials being used, offered, marketed, or distributed by Defendant, and to trebled damages, because Defendant's violations consist of the use of counterfeit trademarks pursuant to 15 U.S.C. § 1116(d).

40. Hydrox is also entitled to recover its attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1117.

COUNT II

FEDERAL UNFAIR COMPETITION (15 USC §1125(a))

41. Hydrox repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

42. Defendant's distribution, marketing, promotion, offering for sale, and sale of goods bearing the Hydrox Trademark constitutes false designations of origin and false descriptions or representations that Defendant's products originate from or are authorized by Hydrox, when, in fact, they are not. Such conduct limits Hydrox's ability to interact with potential customers and achieve the sale of products bearing the Hydrox Trademark.

43. As a result of Defendant's unauthorized use of the Hydrox Trademark and/or marks that are confusingly similar to the Hydrox Trademark, the public is likely

to be misled and confused as to the source, sponsorship, or affiliation of Defendant's retail products that bear the Hydrox name.

44. Defendant's conduct is willful and represents a deliberate attempt by Defendant to take a free ride off of Hydrox's goodwill in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

45. Defendant's wrongful conduct is likely to continue unless restrained and enjoined.

46. As a result of Defendant's wrongful conduct, Hydrox has suffered and will continue to suffer damages. Hydrox is entitled to injunctive relief and to an order compelling the impounding of all imitation trademarks being used, offered, advertised, marketed, installed, or distributed by Defendant. Hydrox has no adequate remedy at law for Defendant's wrongful conduct because, among other things, (a) Hydrox's trademarks are unique and valuable property which have no readily-determinable market value; (b) Defendant's infringement constitutes harm to Hydrox such that Hydrox could not be made whole by any monetary award; (c) if Defendant's wrongful conduct is allowed to continue, the public is likely to become further confused, mistaken, or deceived as to the source, origin, or authenticity of the infringing materials; and (d) Defendant's wrongful conduct, and the resulting damage to Hydrox, is continuing.

COUNT III

Common Law Trademark Infringement

47. Hydrox repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

48. Hydrox has common law rights in the Hydrox Trademark based on its continuous use of the Hydrox Trademark on products it sells and distributes.

49. Defendant's unauthorized use of the Hydrox Trademark to promote, advertise, market, and/or sell its goods is likely to cause confusion, mistake, and deception of the public as to the identity and origin of Defendant's goods, or as to a connection or affiliation with Hydrox, or permission from Hydrox, that does not exist, causing irreparable harm to Hydrox for which there is no adequate remedy at law. Defendant's conduct thus constitutes common law trademark infringement.

50. Despite their actual and constructive knowledge of Hydrox's ownership and prior use of the Hydrox Trademark, Defendant has continued to use the Hydrox Trademark without Hydrox's authorization or consent. Defendant's actions are deliberate and willful and have been done with the intention of trading upon the valuable goodwill built up by Hydrox in their Hydrox Trademark.

51. Hydrox has sustained injury, damage, and loss based on Defendant's actions.

COUNT IV

Common Law Unfair Competition

52. Hydrox repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

53. Defendant's distribution, marketing, promotion, offering for sale, and sale of goods bearing the Hydrox Trademark constitutes false designations of origin and false descriptions or representations that Defendant's products originate from, or are offered, sponsored, authorized, licensed by, or otherwise somehow connected with Hydrox, when, in fact, they are not. As a result of Defendant's conduct, the public is likely to believe that Defendant's goods or services have originated from and/or have been approved by Hydrox.

54. Defendant's unauthorized use of the Hydrox Trademark falsely represents that Defendant's goods emanate from or are authorized by Hydrox and places beyond Hydrox's control the quality of such products, and the message that is associated with such products.

55. Defendant's conduct is willful, intended to reap the benefit of the goodwill associated with the Hydrox Trademark, has caused and continues to cause damage and injury to Hydrox, and constitutes common law unfair competition.

* * *

WHEREFORE, Hydrox respectfully requests judgment against Defendant as follows:

1. That a preliminary and permanent injunction be issued enjoining Defendant, and any employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns, and entities owned or controlled by Defendant, and all those in active concert or participation with Defendant, and each of them who receives notice directly or otherwise of such injunction:

- a. using the Hydrox trademark, or any other trademarks that are confusingly similar to the Hydrox trademark, for its products, or making any other unlawful use of the Hydrox trademarks or any other trademarks owned by Hydrox;
- b. using any false designation of origin or false description, or performing any act which is likely to lead members of the trade or public to believe that any product manufactured, imported, distributed, offered for sale, or sold by Defendant is in any manner associated or connected with Hydrox, or is licensed, sponsored, approved or authorized by Hydrox;
- c. engaging in any other activity constituting unfair competition with Hydrox, or constituting infringement on the Hydrox trademark;
- d. taking any action, including the unauthorized use of the Hydrox trademark, that dilutes the unique association between the Hydrox trademark and Hydrox, Inc., or that tarnishes the reputation or image of Hydrox;
- e. disposing of, destroying, altering, moving, removing, concealing, tampering with, or in any manner secreting any business records (including computer records) of any kind, including invoices, correspondence, books of account, receipts or other documentation relating or referring in any manner to any retail services offered in connection with the

Hydrox trademark, or any mark or designation that is confusingly similar to any of the Hydrox trademark;

- f. instructing, assisting, aiding or abetting any other person or entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (e) above.

2. That the Court enter an order pursuant to 15 U.S.C. § 1116(a)(d)(1)(A) impounding all counterfeit and infringing products and materials bearing any of Hydrox's trademark, including the Hydrox Trademark.

3. Awarding Plaintiff its actual damages, trebled pursuant to 15 U.S.C. § 1117(a) & (b), arising out of Defendant's acts of willful trademark infringement.

4. Awarding Plaintiff its actual damages, trebled pursuant to 15 U.S.C. § 1116(d), arising out of Defendant's use of a counterfeit trademark.

5. Awarding Plaintiff its actual damages, trebled pursuant to 15 U.S.C. § 1117(a), arising out of Defendant's acts of willful unfair competition.

6. Awarding to Plaintiff interest, including pre-judgment interest, on the foregoing sums.

7. Awarding Plaintiff its costs in this civil action, including reasonable attorneys' fees and expenses, pursuant to 15 U.S.C. § 1117(a) and (b).

8. Awarding Plaintiff exemplary and punitive damages to deter any future willful infringement as the Court finds appropriate.

9. Directing such other action as the Court may deem appropriate to prevent the trade and public from deriving the erroneous impression that any goods

manufactured, offered, advertised, or promoted by or on behalf of Defendant are authorized by Hydrox or related in any way to Hydrox's products or services.

10. Directing that Defendant files with the Court and serves upon Plaintiff's counsel within thirty (30) days after entry of judgment a report in writing under oath setting forth in detail the manner and form in which Defendant has complied with the above.

11. Awarding Plaintiff such other and further relief as the Court may deem just and proper.

Date: September 30, 2013

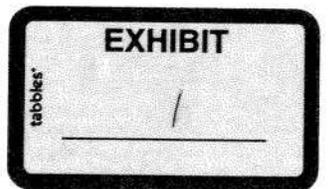
Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Shonder", is written over a horizontal line.

One of Hydrox's lawyers

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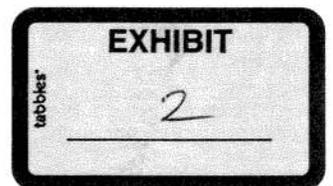


Word Mark	HYDROX OPTIMATES CHEMICALS
Goods and Services	IC 003. US 006. G & S: HYDROGEN PEROXIDE. FIRST USE: 19130322. FIRST USE IN COMMERCE: 19130322
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	03.15.01 - Eagles 03.15.19 - Birds or bats in flight or with outspread wings 03.21.01 - Caduceus; Serpent and staff (caduceus) 24.01.03 - Shields or crests with letters, punctuation or inscriptions contained therein or superimposed thereon 26.03.13 - Ovals, exactly two (not concentric); Two ovals 26.03.16 - Ovals touching or intersecting 26.03.17 - Concentric ovals; Concentric ovals and ovals within ovals; Ovals within ovals; Ovals, concentric 26.03.21 - Ovals that are completely or partially shaded
Serial Number	72383721
Filing Date	February 12, 1971
Current Basis	1A
Original Filing Basis	1A
Registration Number	0939378

Registration Date August 1, 1972
Owner (REGISTRANT) HYDROX CHEMICAL CO. CORPORATION ILLINOIS 825-B TOLL GATE ROAD
ELGIN ILLINOIS 60123
**Assignment
Recorded** ASSIGNMENT RECORDED
**Attorney of
Record** James Michael Faier
Disclaimer NO CLAIM TO THE EXCLUSIVE USE OF THE WORD "CHEMICALS" IS MADE.
**Description of
Mark** Color is not claimed as a feature of the mark.
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20120110.
Renewal 3RD RENEWAL 20120110
**Live/Dead
Indicator** LIVE

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Goods and Services IC 003. US 001 004 006 050 051 052. G & S: hydrogen peroxide for use on hair

IC 005. US 006 018 044 046 051 052. G & S: Hand sanitizer, alcohol gel for medicinal purposes, alcohol gel for topical purposes, antibacterial alcohol gel for use as a skin sanitizer, isopropyl alcohol for medical use, hydrogen peroxide for medical use

IC 039. US 100 105. G & S: contract packaging of drugs and health and beauty products for others

IC 040. US 100 103 106. G & S: contract manufacturing in the field of drugs, health and beauty products for others

IC 042. US 100 101. G & S: research and development of new products in the area of drug products, health and beauty products

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85548295

Filing Date February 21, 2012

Current Basis 1B

Original Filing Basis 1B

Published for Opposition January 1, 2013

Owner (APPLICANT) Hydrox Chemical Company, Inc. CORPORATION ILLINOIS 825 - B Tollgate Road Elgin ILLINOIS 60123

Attorney of Record James Michael Faier

Prior Registrations 0939378

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LABORATORIES" APART FROM THE MARK AS SHOWN

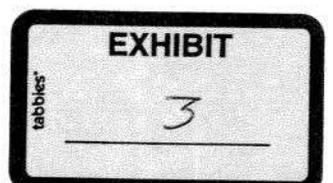
Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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to record:

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Word Mark HYDROX

Goods and Services

IC 003. US 001 004 006 050 051 052. G & S: Hydrogen peroxide for use on the hair

IC 005. US 006 018 044 046 051 052. G & S: Hand sanitizer, alcohol gel for medicinal purposes, alcohol gel for topical purposes, antibacterial alcohol gel for use as a skin sanitizer, isopropyl alcohol for medical use; Hydrogen peroxide for medical use

IC 039. US 100 105. G & S: contract packaging of drugs and health and beauty products for others

IC 040. US 100 103 106. G & S: contract manufacturing in the field of drugs, health and beauty products for others

IC 042. US 100 101. G & S: research and development of new products in the area of drug products, health and beauty products

Mark

Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

26.19.25 - Geometric solids other than spheres, cylinders, cones, cube, prisms or pyramids

Serial Number

85548268

Filing Date

February 21, 2012

Current Basis

1B

Original

Filing Basis

1B

Published

for January 1, 2013

Opposition

Owner (APPLICANT) Hydrox Chemical Company, Inc. CORPORATION ILLINOIS 825 - B Tollgate Road Elgin ILLINOIS 60123

Attorney of Record James Michael Faier

Prior Registrations 0939378

Description of Mark The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of the term "HYDROX" in white stylized lettering contained with in a blue ellipse design.

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Kappana Ramanandan

From: John Polydoros
Sent: Thursday, July 05, 2007 10:57 AM
To: doug.robertson@johnsondiverse.com
Cc: Kappana Ramanandan
Attachments: Brief-JohnsonDiversey (Hydrox) July2007 (2) ppt

Doug,

It was a pleasure talking to you last week. Please find attached our brief company profile and feel free to call us if you have questions. In case you want to discuss further our phone numbers are;

Ram at 847-468-9406

John at 847-468-9408.

Have a great week end.

J.P.

Kappana Ramanandan

From: John Polydoros
Sent: Thursday, July 05, 2007 10:57 AM
To: doug.robertson@johnsondiversey.com
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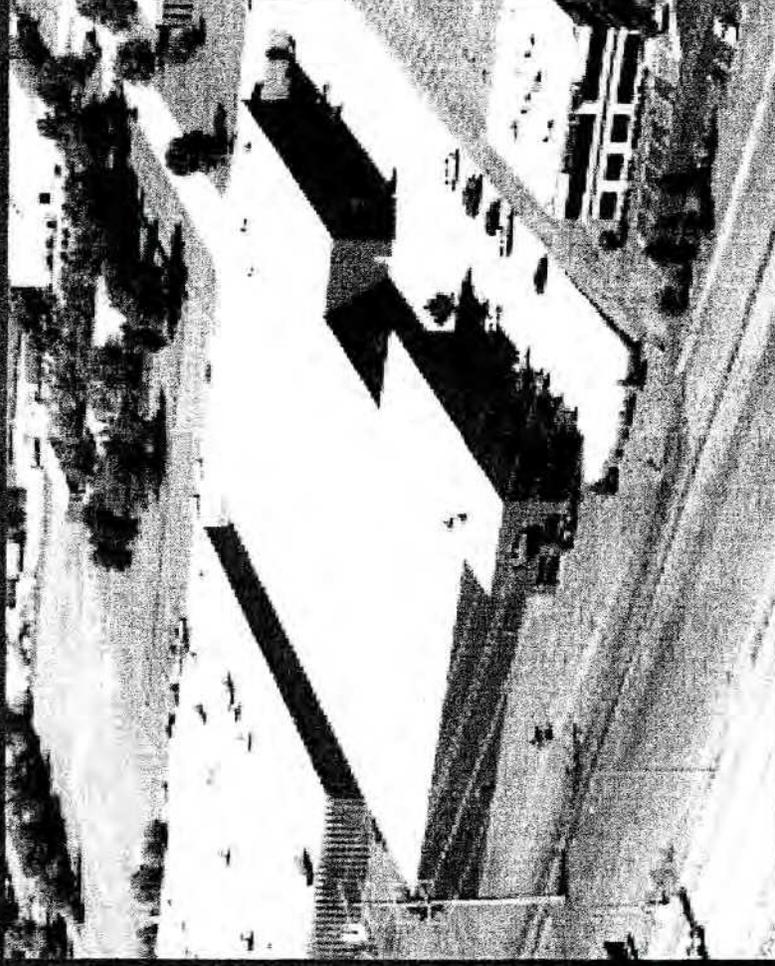
**Contract Filler of Medical and Beauty Products
 Customized Blending and Filling Sizes and Private Labels**

CAPABILITIES OVERVIEW
 for
JohnsonDiversey, Inc.

July 2007

Company History

- Hydrox Laboratories was originally established in 1913
- Company purchased in 1981 by Mr. K. Ramanandan (Ram), a research chemist by trade
- Started as a one-product company with hydrogen peroxide. Now make over 50 products.



Elgin, IL

Our 80,000 sq. ft. Facility

Core Capabilities

- Hydrox Laboratories follows the FDA's Current Good Manufacturing Practices (cGMP)
- State-of-the-art production facility is over 80,000 square feet in size.
- 6 Production Lines
- Capacity is 120 Million Units Annually

Hydrox Laboratories Customers

- Abbott Laboratories (Pharma Mfg)
- Steris (Pharma Mfg)
- Sally Beauty Company, Inc. (Retail)
- McKesson Medical / Surgical (Pharma Distributor)
- Cardinal Health (Pharma Distributor)
- Owens & Minor (Medical Products Distributor)
- The Burrows Company (Medical Products Distributor)

Healthcare

Health Products

- Alcohol Gel, Sanitizer
- Baby Bath and Lotion
- Hand & Body Lotion
- Liquid Soap
- Shampoo Baby
- Baby Oil
- Shampoo, Hair and Body
- Hydrogen Peroxide Solution 3%
- Perineum Wash Spray with Aloe
- Rinse Free Body Bath and Shampoo
- Mouthwash with Alcohol and Non-Alcohol
- Shave Lotion and Gel, Alcohol Free
- Isopropyl Rubbing Alcohol 70% & 99% and Wintergreen



Beauty

Beauty Products

- Bath Gels
- Body Spray
- Developers
- Moisturizers
- Lotions
- Scented Alcohol
- Massage Oil
- Conditioner, Balsam
- Shampoo, Balsam
- Hydrocide Germicide
- Hydrocide, Disinfectant
- Antiperspirant Deodorant



Medical / Surgical Supplies

Cotton Products	Operating Room Towels Gauze and Lap Sponges Elastic Bandages Stockinettes Slipper Socks Infant Receiving Blankets
Plastic Products	Syringes & Needles Equipment Covers Irrigation Sets & Tubing Bags & Liners Bulb Syringes Specimen Containers Towel Clamps and Forceps
Non-Woven Products	Surgical Drapes Surgical Gowns

NOTE: Hydrox Can Provide Private-Label Products

Product Lines

Core Products:

1. Hydrogen Peroxide 3%
2. Isopropyl Rubbing Alcohol 70% and 91%
3. Isopropyl Rubbing Alcohol (Wintergreen)
4. Witch Hazel
5. Hand Sanitizer (70% Ethyl Alcohol)
6. Anti-Bacterial Hand Soap

NAICS Codes (North American Industry Classification System)

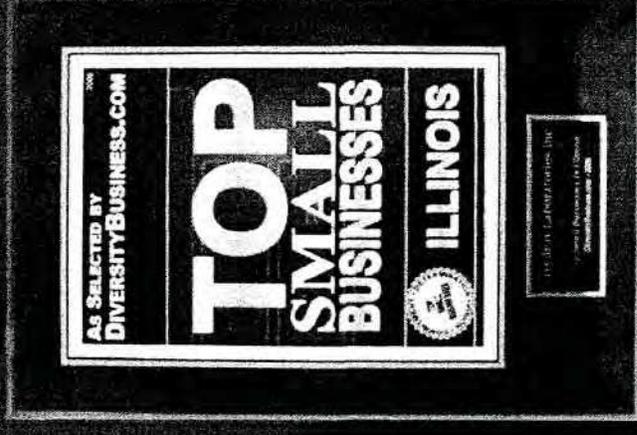
- 325620 – Toilet Preparation Manufacturing (Primary)
- 325188 – All Other Basic Inorganic Chemical Manufacturing
- 325412 – Pharmaceutical Preparation Manufacturing
- 325199 – All Other Basic Organic Chemical Manufacturing
- 325193 - Ethyl Alcohol Manufacturing
- 325998 - Distilled Water, Demineralized, and Purified
- For a complete product list please see: www.HydroxLabs.com

Why Hydrox is Different

- **Track Record.** Long-term, loyal major corporate clients with relationships up to 15 years plus servicing over 5,000 U.S. hospitals.
- **Superior Product Purity.** We use purified water for all manufactured products which prevents bacteria growth. The water meets U.S. Pharmacopeia (USP) Standards and drug products are FDA approved.
- **Special Licenses.** Hydrox Labs is one of the three ATF-authorized manufacturers for filling alcohol products in the United States. U.S. Environmental Protection Agency (EPA) germicide license.
- **Strategic Supplier.** Hydrox Labs is one of the few certified minority business enterprise (MBE) manufacturers of health and beauty products.
- **Stability.** Our company has a stable management team and workforce. Our senior managers have been with the company and/or industry for over 15 years.
- **Location.** Hydrox Labs is centrally located in the USA in a major transportation hub. This helps reduce costs and saves time.

Supplier Diversity

- Few M/WBE Manufacturer Competitors
- Strategic MBE Supplier (Manufacturer)
- World-Class Supplier Award Winner
 - Cardinal Health
 - McKesson Medical / Surgical
 - Sally Beauty Supply
 - Medline Industries
 - Owens & Minor
- Top 200 Small Business of the Year (2006 Award)
- Supplier Diversity Provides a Competitive Advantage



Value Proposition

Area	Hydrox Labs Value Added
Market Space	Servicing the Healthcare Industry and Approximately 5,000 Hospitals in the United States in the Past 20 Years.
Flexibility	Six Production Lines Provide the Capacity and Flexibility to Meet Rush / Surge Orders.
Pricing	Hydrox Labs Offers Extremely Competitive Pricing of Our Products
Emerging Markets	Help Service Emerging Consumer Markets via Co-Development
New Products	Hydrox Labs Has Successfully Developed New Products In-House. Potential New Products are Germicides and Advanced Sterilization Products.
Supplier Diversity	Help Customers Meet Their Supplier Diversity Goals

Summary

- Hydrox Labs has been a Strategic Supplier to the Healthcare Industry for 20 Years
- Hydrox Labs is One of the Few Certified MBE Manufacturers in the Healthcare Industry
- Hydrox Labs Six Production Lines Provide the Capacity and Flexibility to Meet Rush / Surge Orders for Its Clients
- Hydrox Labs Would Like to Get a Trial Order and/or Subcontract Opportunity

Hydrox Laboratories

Attn: Mr. John Polydoros, COO

825-B Tollgate Road

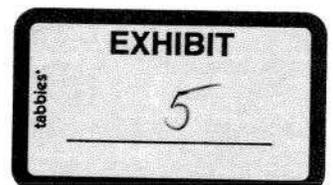
Elgin, IL 60123-9326

847-468-9408 (Phone) * 847-468-9407 (Fax)

www.HydroxLabs.com * John@HydroxLabs.com



Hydrox
LABORATORIES





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Industry Canada

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d'Industrie Canada

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APPLICATION NUMBER:

0890202

REGISTRATION NUMBER:

TMA549021

STATUS:

REGISTERED

FILED:

1998-09-14

FORMALIZED:

1998-09-24

ADVERTISED:

1999-09-22

REGISTERED:

2001-07-31

REGISTRANT:

VIROX TECHNOLOGIES INC.
2815 Bristol Circle, Unit 4
Oakeville
L6H 6X5
ONTARIO

REPRESENTATIVE FOR SERVICE:

PERRY + CURRIER
1300 YONGE STREET
SUITE 500
TORONTO
ONTARIO M4T 1X3

CURRENT OWNER:

Diversey, Inc.
(a Delaware corporation)
8310 16th Street
Sturtevant, Wisconsin 53177-1964
UNITED STATES OF AMERICA

REPRESENTATIVE FOR SERVICE:

MCMILLAN LLP
BROOKFIELD PLACE, SUITE 4400
BAY WELLINGTON TOWER
181 BAY STREET
TORONTO
ONTARIO M5J 2T3

INTERESTED PARTIES:

OPPONENT (CASE CLOSED)

Brent International Plc
 Ridgeway, Iver
 Buckinghamshire
 SL0 9JJ
 UNITED KINGDOM
REPRESENTATIVE FOR SERVICE:
 SIM & MCBURNEY
 330 UNIVERSITY AVENUE
 6TH FLOOR
 TORONTO
 ONTARIO M5G 1R7

TRADE-MARK (Word):**HYDROX****INDEX HEADINGS:**

HYDROX

WARES:

(1) All purpose disinfectant cleaners.

CLAIMS:

Used in CANADA since at least as early as 1991.

Action Information

<u>ACTION</u>	<u>DATE</u>	<u>BF</u>	<u>COMMENTS</u>
Filed	1998-09-14		
Created	1998-09-21		
Formalized	1998-09-24		
Amendment to Registration	1999-03-02		Owner Address Change
Search Recorded	1999-03-26		
Examiner's First Report	1999-04-14	1999-08-14	
Approved	1999-08-17		
Extracted for Advertisement	1999-09-10		Vol.46 Issue 2343 1999/09/22
Advertised	1999-09-22		Vol.46 Issue 2343
Opposed	1999-11-29		Opposition Filed.
Opposition Removed	2001-07-06		Case Closed - Opponent Withdraws 91
Allowed	2001-07-12		
Allowance Notice Sent	2001-07-12	2002-01-12	
Registered	2001-07-31		
Rep for Service Name Change	2002-12-17		
Rep for Service Changed	2004-04-05		From: 3364 To: 6258 / Voir Preuve au dossier/See evidence on File No. 890203
Rep for Service Changed	2005-01-28		From: 6258 To: 59 / Voir Preuve au dossier/See evidence on File No.

Amendment to Registration	2007-07-03	890202 Owner Address Change / Voir Preuve au dossier/See evidence on File No. 890202
Rep for Service Changed	2008-06-05	From: 59 To: 14930 / Voir Preuve au dossier/See evidence on File No. 890202
Rep for Service Changed	2008-11-19	From: 14930 To: 9878 / Voir Preuve au dossier/See evidence on File No. 890202
Change in Title Registered	2008-11-19	Assignment / Voir Preuve au dossier/See evidence on File No. 890202
Amendment to Registration	2010-05-18	Name and Address / Voir Preuve au dossier/See evidence on File No. 169985
Rep for Service Changed	2011-01-05	From: 9878 To: 14078

FOOTNOTES:**OWNER ADDRESS CHANGE/CHANGEMENT D'ADRESSE DU PROPRIÉTAIRE:**

DATE REGISTERED/DATE DE L'ENREGISTREMENT: 03 juil/Jul 2007

COMMENTS/COMMENTAIRES: Voir Preuve au dossier/See evidence on File No. 890202

CHANGE IN TITLE/CHANGEMENT EN TITRE:

TYPE OF CHANGE/GENRE DE CHANGEMENT: Assignment/Cession

DATE REGISTERED/DATE DE L'ENREGISTREMENT: 19 nov/Nov 2008

DATE OF CHANGE/DATE DE CHANGEMENT: 15 sept/Sep 2008

COMMENTS/COMMENTAIRES: FROM: VIROX TECHNOLOGIES INC.

TO: JohnsonDiversey, Inc.

Nunc pro tunc October 30, 2007

Voir Preuve au dossier/See evidence on File No. 890202

CHANGE IN TITLE/CHANGEMENT EN TITRE:

TYPE OF CHANGE/GENRE DE CHANGEMENT: Name and Address/Nom et adresse

DATE REGISTERED/DATE DE L'ENREGISTREMENT: 18 mai/May 2010

DATE OF CHANGE/DATE DE CHANGEMENT: 01 mars/Mar 2010

COMMENTS/COMMENTAIRES: FROM: JohnsonDiversey, Inc.

TO: Diversey, Inc.

(a Delaware corporation)

Voir Preuve au dossier/See evidence on File No. 169985

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Last updated: 2013-08-20

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HYDROX

Word Mark HYDROX
Goods and Services (ABANDONED) IC 003. US 001 004 006 050 051 052. G & S: ALL PURPOSE CLEANER
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77579061
Filing Date September 25, 2008
Current Basis 1B
Original Filing Basis 1B
Owner (APPLICANT) JohnsonDiversey, Inc. CORPORATION DELAWARE MS 509 8310 16th Street Sturtevant WISCONSIN 531771964
Attorney of Record David C. Quast
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator DEAD
Abandonment Date October 19, 2009

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HYDROX General Purpose Cleaner with Hydrogen Peroxide

HMIS	NFPA	Personal protective equipment
Health	2	2
Fire Hazard	0	0
Reactivity	0	0

None / Aucune / Ninguno

Version Number: 6

Preparation date:2010-06-07

1. PRODUCT AND COMPANY IDENTIFICATION

Product name: HYDROX General Purpose Cleaner with Hydrogen Peroxide

MSDS #: MS0300045

Product Code: 5019448, 4998795, 2963759, 4998816, 4998808, 4998824, 5271336, 5292436, 5314981, 5338078

Recommended use: General purpose cleaner. This product is intended to be diluted prior to use.

Manufacturer, importer, supplier:

US Headquarters
Diversey, Inc.
8310 16th St.
Sturtevant, Wisconsin 53177-1964
Phone: 1-888-352-2249
MSDS Internet Address: www.diversey.com

Canadian Headquarters
Diversey, Inc. - Canada, Inc.
2401 Bristol Circle
Oakville, Ontario L6H 6P1
Phone: 1-800-668-3131

Emergency telephone number: 1-800-851-7145 (U.S.); 1-651-917-6133 (Int'l)

2. HAZARDS IDENTIFICATION

EMERGENCY OVERVIEW

CAUTION. CAUSES EYE IRRITATION. MAY BE MILDLY IRRITATING TO SKIN.

Principal routes of exposure: Eye contact. Skin contact. Inhalation.

Eye contact: Moderately irritating to the eyes.

Skin contact: May be mildly irritating to skin.

Inhalation: None known.

Ingestion: May cause irritation to mouth, throat and stomach.

3. COMPOSITION/INFORMATION ON INGREDIENTS

Ingredient(s)	CAS #	Weight %	LD50 Oral - Rat (mg/kg)	LD50 Dermal - Rabbit	LC50 Inhalation - Rat
Hydrogen peroxide	7722-84-1	1 - 5%	801	=2000 mg/kg	=2 mg/L (4 h)
Alcohol ethoxylates	68439-46-3	10 - 20%	1378	>2 g/kg	Not available

4. FIRST AID MEASURES

Eye contact: Flush immediately with plenty of water. If irritation persists, get medical attention.

Skin contact: Flush immediately with plenty of water. If irritation develops, get medical attention.

Inhalation: No specific first aid measures are required.

Ingestion: If swallowed, give a cupful of water or milk.

Aggravated Medical Conditions: None known

5. FIRE-FIGHTING MEASURES

Suitable extinguishing media: The product is not flammable. Extinguish fire using agent suitable for surrounding fire.

Specific hazards: Oxidizer. Decomposition releases oxygen, which may intensify fire.

Unusual hazards: None known
Specific methods: No special methods required

Special protective equipment for firefighters:As in any fire, wear self-contained breathing apparatus pressure-demand, MSHA/NIOSH (approved or equivalent) and full protective gear

Extinguishing media which must not be used for safety reasons:No information available

6. ACCIDENTAL RELEASE MEASURES

Personal precautions: Not relevant for the product itself.
Environmental precautions and clean-up methods: Clean-up methods - large spillage. Absorb spill with inert material (e.g. dry sand or earth), then place in a chemical waste container. Use a water rinse for final clean-up.

7. HANDLING AND STORAGE

Handling: Avoid contact with skin, eyes and clothing. Wash thoroughly after handling.FOR COMMERCIAL AND INDUSTRIAL USE ONLY.
Storage: Protect from freezing. Keep tightly closed in a dry, cool and well-ventilated place. KEEP OUT OF REACH OF CHILDREN.

8. EXPOSURE CONTROLS / PERSONAL PROTECTION

Engineering measures to reduce exposure:
No special ventilation requirements General room ventilation is adequate

Personal Protective Equipment

Eye protection: No special requirements under normal use conditions.
Hand protection: No special requirements under normal use conditions
Skin and body protection: No special requirements under normal use conditions.
Respiratory protection: No special requirements under normal use conditions.
Hygiene measures: Handle in accordance with good industrial hygiene and safety practice

Ingredient(s)	CAS #	ACGIH	OSHA	Mexico
Hydrogen peroxide	7722-84-1	1 ppm (TWA)	1 ppm (TWA) 1.4 mg/m ³ (TWA)	2 ppm (STEL) 3 mg/m ³ (STEL) 1 ppm (TWA) 1.5 mg/m ³ (TWA)

9. PHYSICAL AND CHEMICAL PROPERTIES

Physical State:Liquid
Appearance:Aqueous solution
Specific gravity:1.026
Vapor density:No information available
Boiling point/range:Not determined
Decomposition temperature:Not determined
Solubility:Completely Soluble
Solubility in other solvents:No information available
Partition coefficient (n-octanol/water):No information available
Elemental Phosphorus:0.00% by wt.
pH:2.0

Bulk density:No information available
Evaporation Rate:No information available
Color:Clear/Colorless
Odor:No Odor/Odorless
Melting point/range:Not determined
Autoignition temperature:No information available
Density:8.56lbs/gal1.026Kg/L
Flash point:>200°F>93.4°C
Viscosity:No information available
VOC:0% *
Dilution pH:6.2@1:64

Explosion limits:- upper:Not determined- **lower:**Not determined

* - Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 8.5, Article 2, Consumer Products, Sections 94508

10. STABILITY AND REACTIVITY

Stability: The product is stable
Polymerization: Hazardous polymerization does not occur
Hazardous decomposition products: Oxygen.
Materials to avoid: Bases . Reducing agents.
Conditions to avoid: Do not freeze. Do not mix with any other product or chemical .

11. TOXICOLOGICAL INFORMATION

Acute toxicity: Oral LD50 estimated to be greater than 5000 mg/kg Dermal LD50 estimated to be > 2000 mg/kg
Component Information: See Section 3

Chronic toxicity: None known

Specific effects

- Carcinogenic effects:** None known
- Mutagenic effects:** None known
- Reproductive toxicity:** None known
- Target organ effects:** None known

12. ECOLOGICAL INFORMATION

Environmental Information: No data available

13. DISPOSAL CONSIDERATIONS

Waste from residues / unused products:
Dispose of according to all federal, state and local applicable regulations
RCRA Hazard Class:D002

14. TRANSPORT INFORMATION

DOT/TDG:Please refer to the Bill of Lading/receiving documents for up to date shipping information

15. REGULATORY INFORMATION

International Inventories

All components of this product are listed on the following inventories:U.S.A. (TSCA), Canada (DSL/NDSL).

U.S. Regulations

California Proposition 65:This product is not subject to the reporting requirements under California's Proposition 65

RIGHT TO KNOW (RTK)

Ingredient(s)	CAS #	MARTK:	NJRTK:	PARTK:	RIRTK:
Sodium xylene sulfonate	1300-72-7	-	-	-	-
Alcohol ethoxylates	68439-46-3	-	-	-	-
Hydrogen peroxide	7722-84-1	X	X	X	X
Water	7732-18-5	-	-	-	-

CERCLA/ SARA

Ingredient(s)	CAS #	Weight %	CERCLA/SARA RQ (lbs)	Section 302 TPQ (lbs)	Section 313
Hydrogen peroxide	7722-84-1	1 - 5%		1000	

SARA 311/312 Hazard Categories

Immediate: x
Delayed: -
Fire: -
Reactivity: -
Sudden Release of Pressure: -

Canada

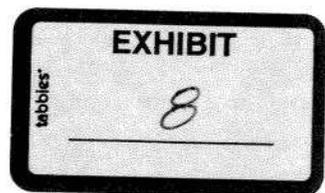


WHMIS hazard class:D2B Toxic materials

16. OTHER INFORMATION

Reason for revision: Not applicable
Prepared by: NAPRAC
Additional advice: Does not contain an added fragrance.

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Compare



Hydrox Laboratories 3% U.S.P Hydrogen Peroxide

Manuf / Supplier: Medline

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Compare



Hydrox Laboratories Isopropyl Alcohol

Manuf / Supplier: Hydrox Laboratories

View Item List

Compare



FreshMoment Witch Hazel

Manuf / Supplier: Hydrox Laboratories

View Item List

Compare



BLADE SURGICAL CARBON

Compare



70% Isopropyl Rubbing Alcohol

Manuf / Supplier: Various Manufacturers / Suppliers

View Item List

Compare



Diversey Hydrox General Purpose Cleaner

Manuf / Supplier: Diversey

View Item List

Compare



Surgical Knives

Manuf / Supplier: Hydrox Laboratories

View Item List

Compare



BLADE, SURGICAL, STAINLESS

Compare



Hydrox Laboratories 70% Isopropyl Rubbing Alcohol

Manuf / Supplier: Hydrox Laboratories

View Item List

Compare



Infant Heel Warmer by Hydrox Laboratories

Manuf / Supplier: Philips

View Item List

Compare



Isopropyl Rubbing Alcohol by Cardinal Health

Manuf / Supplier: Cardinal Health Medical Products

View Item List

Compare



BLADE, SURGICAL, CARBON

STEEL, STER 10

Manuf / Supplier: Hydrox
Laboratories

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REQUEST
FORM
BY FAX/PHONE

STEEL, STER 10

Manuf / Supplier: Hydrox
Laboratories

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STEEL, STER 15

Manuf / Supplier: Hydrox
Laboratories

View Item List

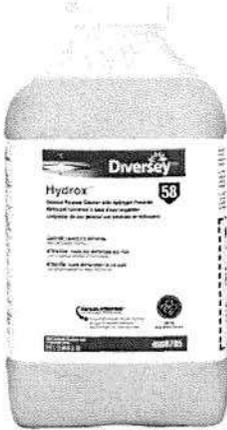
**BLADE, SURGICAL, CARBON
STEEL, STER 11**

Manuf / Supplier: Hydrox
Laboratories

View Item List



Better Products, Better Outcomes™



Diversey Hydrox General Purpose Cleaner

[Description](#) [Literature](#) [Multimedia](#) [Specs](#) [MSDS](#)

- A concentrated general purpose cleaner with proprietary accelerated hydrogen peroxide technology for high-productivity cleaning.
- Depending on dilution, this product can be used for a variety of cleaning applications, including floors, glass and other hard surfaces.
- Can be used in floor scrubbers, mop and bucket, and spray-and-wipe cleaning.
- At dilution, formula is safe for use on marble.
- Contains no added dyes or fragrance.
- Product can be used for carpet extraction, pre-spray and spotting.
- Colorless and odorless.

Ordering Information

Material	Description	Packaging
DVY4998795	CLEANER, GENERAL, HYDROX, 2X2½L, JFILL	2/CS

Exhibit B

**IN THE UNITED STATES COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Hydrox Chemical Company, Inc.

Plaintiff,

v.

Diversey, Inc.

Defendant.

Case No. 1:13-cv-07024

Hon. Judge Ronald A. Guzman

Hon. Magistrate Judge Susan E. Cox

CORRECTED ANSWER

For its Answer to the Complaint of plaintiff Hydrox Chemical Company, Inc., defendant Diversey, Inc. (“Diversey”), by and through its attorneys, makes the following answers, statements and allegations. Except as hereinafter expressly admitted, qualified, or otherwise answered, Diversey denies each and every allegation and assertion made in the Complaint.

Plaintiff’s Introduction

Plaintiff Hydrox Chemical Company, Inc. is the victim of what amounts to a corporate identity theft. Accordingly, it brings this civil action for trademark infringement under the Federal Trademark (Lanham) Act, 15 U.S.C. §1114(1); unfair competition and false designation of origin under the Lanham Act, 15 U.S.C. §1125(a); common law trademark infringement; and common law unfair competition. It seeks preliminary and permanent injunctive relief; an accounting and award of Defendant’s profits, compensatory, treble, and/or statutory damages; an award of costs and attorneys’ fees; and other such further relief as this Honorable Court deems appropriate.

ANSWER: Diversey denies the allegations of the “Introduction” to Plaintiff’s Complaint, except states that the Complaint’s request for relief speaks for itself.

The Parties

1. HYDROX CHEMICAL COMPANY, INC. (“Hydrox” or “Plaintiff”), is an Illinois Corporation with its principal place of business in Elgin, Illinois.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Complaint.

2. DIVERSEY, INC. (“Diversey” or “Defendant”) is a Delaware Corporation with its principal place of business in Sturtevant, Wisconsin.

ANSWER: Answering paragraph 2 of the Complaint, Diversey states the Diversey is a Delaware corporation with its principal place of business in Elmwood Park, New Jersey.

Jurisdiction

3. This Court has subject matter jurisdiction over Hydrox’s federal claims under 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338(a). The Court has jurisdiction over Hydrox’s state law claims under 28 U.S. C. §1332, as there is diversity of citizenship between the parties and the amount in controversy exceeds, exclusive of interest and costs, the sum of seventy-five thousand dollars (\$75,000).

ANSWER: Answering paragraph 3 of the Complaint, Diversey admits that the Court has subject matter jurisdiction over Plaintiff’s claims, and that there is diversity of citizenship between the parties, but states that it is without knowledge or information sufficient to form a belief as to the truth of the allegation that the amount in controversy exceeds \$75,000.

4. This court has personal jurisdiction over Defendant because Defendant does business in this district and has imported, distributed, offered for sale, sold and/or shipped products to persons within this District, regularly transacts and conducts business within this District, and Defendant otherwise has made or established contacts within this District sufficient to permit the exercise of personal jurisdiction.

ANSWER: Answering paragraph 4 of the Complaint, Diversey admits that the court has personal jurisdiction over Diversey.

Background Allegations

5. Hydrox is one of the nation's oldest manufacturing companies and the patent originator of the hydrogen peroxide solution. Since its original founding some one hundred (100) years ago, Hydrox has expanded its product line under the "Hydrox" name from a single one - hydrogen peroxide - to over one hundred (100), including disinfectants, cleaners, antiseptics, beauty products and a surgical instrument care line. Today, Hydrox is one of the few Minority Owned Business (MBE) certified manufacturers of health and beauty products in the United States.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Complaint.

6. The Hydrox name is well known in the medical, healthcare and beauty industries. Hydrox has received various awards and recognitions for excellence. As a result of plaintiff's long-term and widespread use of the Hydrox mark in the United States via the Internet, print and other coverage, the Hydrox mark enjoys a high degree of consumer recognition. Hydrox is a famous mark.

ANSWER: Diversey denies the allegations of paragraph 6 of the Complaint, except states that Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff "has received various awards and recognitions for excellence."

7. Hydrox sells its products directly and through distributors, including a major distributor located in Mundelein, Illinois (the "Mundelein Distributor").

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Complaint.

8. Over the past century, Hydrox has continuously used the highly distinctive trademark “Hydrox” in the sale of its products. The Hydrox brand is widely recognized in the public as an indicator of Hydrox’s products. As a result of Hydrox’s extensive use of its name, Hydrox has built and owns enormously valuable goodwill.

ANSWER: Diversey denies the allegations of paragraph 8 of the Complaint.

9. The market for hydrogen peroxide and hydrogen peroxide-based products is highly competitive. Hydrox competes against large, multinational companies for sales of products and must maintain a strong brand to compete effectively. And, with the strength of its mark, Hydrox has developed a strong market presence over the years, achieving ever increasing sales and market presence.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 of the Complaint, except denies that HYDROX is a strong mark.

10. Hydrox has developed common law rights in its name, trademarks and logos through its extensive use thereof. Also, Hydrox has owned trademark registration number 0939378 for Hydrox Optimates Chemicals and the associated logo since 1971:



See Exhibit 1.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 of the Complaint.

11. Hydrox has applied for federal trademark registration for its mark “Hydrox Laboratories,” serial number 85548295:

HYDROX LABORATORIES

See Exhibit 2.

ANSWER: Answering paragraph 11 of the Complaint, Diversey admits on information and belief that Plaintiff has applied for federal registration of the mark HYDROX LABORATORIES.

12. And for the “Hydrox” logo under serial number 85548268:



See Exhibit 3. The above trademarks are collectively referred to as the “Hydrox Trademark.”

ANSWER: Answering paragraph 12 of the Complaint, Diversey admits on information and belief that Plaintiff has applied for federal registration of the mark:



13. All of the foregoing registrations and pending applications are valid, subsisting and in full force and effect.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 of the Complaint.

14. In or about June 2007, during U.S. Pan Asian American Chamber Of Commerce Conference, (USPAACC), James Costa (“Costa”), V.P. Global Procurement for PepsiCo, not a party to this action, introduced Hydrox’s President and CEO, Kappana Ramanandan

(“Ramanandan”) to Diversey (then, “JohnsonDiversey”) and to some of its employees. Costa, PepsiCo and USP AACC were promoting Minority Business Development.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14 of the Complaint.

15. Costa and Ramanandan discussed Hydrox developing a hydrogen peroxide-based cleaner for washing/ disinfecting Pepsi bottles before filling, to clean/eliminate bacterial contamination. Ramanandan offered a hydrogen peroxide-based cleaner as an alternate to bleach, which can be considered hazardous.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Complaint.

16. Costa informed Ramanandan that Diversey and TetraPak (a company located in Denton, TX) were two of PepsiCo’s biggest suppliers and packer of juices. Costa suggested to Ramanandan that he contact Alex Croy, plant manager of TetraPak to discuss use of a peroxide-based cleaner for PepsiCo. Several discussions followed.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the Complaint.

17. In or about June, 2007, a representative of Diversey contacted Mr. Ramanandan and inquired into various Hydrox hydrogen peroxide products. Ramanandan promised that he would send Diversey information about Hydrox including its capabilities and its products.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Complaint.

18. In or about early July, 2007, Hydrox’s Chief Operating Officer John Polydoros (“Polydoros”) sent the promised information to Defendant’s Doug Robertson (“Robertson”), which included information about Hydrox and its products, as well as an overview of Hydrox’s capabilities. *See* Exhibit 4.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 of the Complaint.

19. Diversey, however, did not order any product from Hydrox. Rather, it now appears that Diversey designed to misappropriate the Hydrox name.

ANSWER: Diversey admits that allegations of the first sentence of paragraph 19 of the Complaint on information and belief. Diversey denies the allegations of the second sentence of paragraph 19 of the Complaint.

20. Over a year later, on or about September 10, 2008, Diversey obtained ownership through an assignment per the *Canadian* Patent and Trademark office, of the a Canadian trademark of the name “Hydrox.” The assignment was registered on November 19, 2008, *mmc pro tunc* to October 30, 2007. *See* Exhibit 5.

ANSWER: Answering paragraph 20 of the Complaint, Diversey states that, by a Worldwide Trademark Assignment from Virox Technologies Inc., effective October 30, 2007 and signed September 15, 2008, Diversey obtained ownership of, among other things, United States and Canadian registrations of the trademark HYDROX. Further, Diversey admits that the assignment of the Canadian registration was recorded with the Canadian Intellectual Property Office on November 19, 2008.

21. On October 2, 2009, Defendant also applied for trademark protection of the Word Mark for “Hydrox” with the United States Patent and Trademark Office (PTO). *See* Exhibit 6.

ANSWER: Answering paragraph 21 of the Complaint, Diversey admits that it did on October 2, 2009, file an application for the mark HYDROX with the United States Patent and Trademark Office, but denies that that October 2, 2009, application is the application referenced in Exhibit 6 to the Complaint.

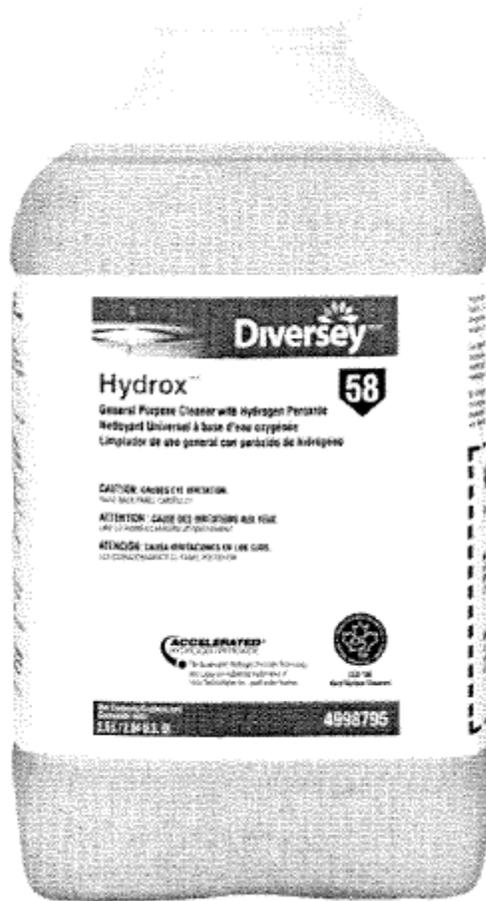
22. On December 11, 2010, the PTO declared that application to have been “abandoned.” The PTO now considers that application “dead.” *Id.*

ANSWER: Answering paragraph 22 of the Complaint, Diversey admits that the application it filed on October 2, 2009, was deemed abandoned by the United States Patent and Trademark Office as of December 11, 2010, but denies that that October 2, 2009, application is the application referenced in Exhibit 6 to the Complaint.

23. Several months later, in or about May, 2011, a representative of Diversey telephoned Ramanandan. In that conversation, the representative, an individual believed to be John Rote (“Rote”), inquired as to whether the Hydrox Company was for sale. Ramanandan replied that it was not. Rote then offered Ramanandan \$10,000 for a license to use the Hydrox Trademark indefinitely on one or more of Defendant’s products. Ramanandan refused to license the Hydrox Trademark to Defendant.

ANSWER: Diversey denies the allegations of paragraph 23 of the Complaint, but states that Diversey’s John Rau did in or about April 2011, discuss with Plaintiff’s Ram Ramanandan the possibility of Diversey paying \$10,000 to Plaintiff for a license to the HYDROX mark, and that Plaintiff was not interested in granting a license.

24. In or about June, 2013, Hydrox discovered that Diversey is selling a cleaner it calls “HYDROX General Purpose cleaner with Hydrogen Peroxide” in the United States including in the Northern District of Illinois, through the Mundelein Distributor. *See Exhibits 7 and 8 respectively.*



ANSWER: Diversey denies the allegations of paragraph 24 of the Complaint.

25. Hydrox has not consented to, sponsored, endorsed, or approved of Defendant's use of the Hydrox Trademark or any variations thereof in connection with the manufacture, marketing, or sale of any of Defendant's products or services.

ANSWER: Answering paragraph 25 of the Complaint, Diversey admits that Plaintiff has not given any express consent for Diversey to use the mark HYDROX.

26. Given the history as set forth above, it is clear that Defendant's actions are willful and reflect an intent to confuse consumers and/or profit from the goodwill and consumer recognition associated with Plaintiff's mark.

ANSWER: Diversey denies the allegations of paragraph 26 of the Complaint.

27. As of the date of this Complaint, Defendant continues to use the Hydrox Trademark without authorization, and continues to promote, distribute, offer for sale, and sell products bearing the Hydrox Trademark and consequently, continues to engage in trademark infringement and unfair competition.

ANSWER: Diversey denies the allegations of paragraph 27 of the Complaint.

28. Defendant's misappropriation of the Hydrox Trademark is likely to create confusion as to the source of the product(s) bearing the Hydrox Trademark. Hydrox and Diversey compete in the same market and/or consumers are likely to believe that Hydrox is expanding into the market of Diversey's infringing product. Indeed, Hydrox products and Diversey products are distributed through the same or similar channels of distribution and are targeted at many of the same customers.

ANSWER: Diversey denies the allegations of paragraph 28 of the Complaint.

29. Consumers are, therefore, likely to believe that Defendant's products that bear the Hydrox Trademark, including the identified cleaner that contains hydrogen peroxide, are associated with Plaintiff, when that is not the case. Such confusion is likely to damage Hydrox's ability to interact with potential customers and achieve sales of actual Hydrox products and consequently, reduce Hydrox's ability to sell its products.

ANSWER: Diversey denies the allegations of paragraph 29 of the Complaint.

30. Further, Defendant's unauthorized use of the Hydrox Trademark places beyond Hydrox's control the quality of products bearing their trademark. Any consumer dissatisfaction with the infringing product is, therefore, likely to damage Hydrox's reputation and good will in the marketplace.

ANSWER: Diversey denies the allegations of paragraph 30 of the Complaint.

31. Defendant's aforesaid conduct is causing immediate and irreparable injury to Hydrox and to its goodwill, reputation, and ability to profit from the sale of its products, and will continue both to damage Hydrox and to deceive the public unless enjoined by this Court. Hydrox has no adequate remedy at law.

ANSWER: Diversey denies the allegations of paragraph 31 of the Complaint.

Count I

32. Hydrox adopts and realleges the allegations set forth in paragraphs 1-27 as though fully set forth herein.

ANSWER: Answering paragraph 32 of the Complaint, Diversey adopts and restates the answers above.

33. Defendant's distribution, marketing, promotion, offering for sale, and sale of goods that bear the Hydrox Trademark is likely to cause confusion, mistake, or deception as to the source, affiliation, sponsorship, or authenticity of Defendant's goods. Diversey has literally stolen Hydrox's name. As a result of Defendant's unauthorized use of trademarks that are identical to and/or confusingly similar to the Hydrox federally registered mark, the public is likely to believe that Defendant's goods have been manufactured, approved by, or are affiliated with Hydrox. Consequently, Defendants' illegal conduct limits Hydrox's ability to gain revenue through the sale of products bearing the Hydrox's own registered trademark.

ANSWER: Diversey denies the allegations of paragraph 33 of the Complaint.

34. Defendant's unauthorized use of the Hydrox Trademark falsely represents Defendant's products as emanating from, or being authorized by, Hydrox and places beyond Hydrox's control the quality of products bearing the Hydrox Trademark. It also placed beyond Hydrox's control the overall message associated with the Hydrox Trademark and products bearing the Hydrox Trademark.

ANSWER: Diversey denies the allegations of paragraph 34 of the Complaint.

35. Defendant knows of and has recognized Hydrox's ownership of the Hydrox Trademark. In fact, Defendant has offered to purchase or license the mark. Defendant's infringement of the Hydrox Trademark is willful, intended to reap the benefit of the goodwill of Hydrox, and violates Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

ANSWER: Diversey denies the allegations of paragraph 35 of the Complaint, except admits that Diversey came to know of Plaintiff's ownership of a registration of the mark HYDROX and that Diversey offered to take a license under that registration.

36. As a result of Defendant's wrongful conduct, Hydrox has suffered, and will continue to suffer, substantial damages. Under 15 U.S.C. § 1117(a), Hydrox is entitled to recover damages, which include any and all profits Defendant made as a result of their wrongful conduct.

ANSWER: Diversey denies the allegations of paragraph 36 of the Complaint.

37. In addition, because Defendant's infringement of the Hydrox Trademark was willful within the meaning of the Lanham Act, the award of actual damages and profits should be trebled pursuant to 15 U.S.C. § 1117(b). In the alternative, Hydrox is entitled to statutory damages for each counterfeit mark, under 15 U.S.C. § 1117(c).

ANSWER: Diversey denies the allegations of paragraph 37 of the Complaint.

38. Hydrox is also entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a). Hydrox has no adequate remedy at law for Defendant's wrongful conduct because, among other things, (a) Hydrox's trademark is unique and valuable property the damage to which would be irreparable, (b) Defendant's infringement constitutes harm to Hydrox such that Hydrox could not be made whole by any monetary award, (c) if Defendant's wrongful conduct is allowed to continue, the public is likely to become further confused, mistaken, or deceived as to the source,

origin, or authenticity of the infringing materials, and (d) Defendant's wrongful conduct, and the resulting damage to Hydrox, is continuing.

ANSWER: Diversey denies the allegations of paragraph 38 of the Complaint.

39. Hydrox is also entitled to an order compelling the impounding of all infringing materials being used, offered, marketed, or distributed by Defendant, and to trebled damages, because Defendant's violations consist of the use of counterfeit trademarks pursuant to 15 U.S.C § 1116(d).

ANSWER: Diversey denies the allegations of paragraph 39 of the Complaint.

40. Hydrox is also entitled to recover its attorneys' fees and costs of suit pursuant to 15 U.S.C § 1117.

ANSWER: Diversey denies the allegations of paragraph 40 of the Complaint.

Count II

41. Hydrox repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

ANSWER: Answering paragraph 41 of the Complaint, Diversey adopts and restates the answers above.

42. Defendant's distribution, marketing, promotion, offering for sale, and sale of goods bearing the Hydrox Trademark constitutes false designations of origin and false descriptions or representations that Defendant's products originate from or are authorized by Hydrox, when, in fact, they are not. Such conduct limits Hydrox's ability to interact with potential customers and achieve the sale of products bearing the Hydrox Trademark

ANSWER: Diversey denies the allegations of paragraph 42 of the Complaint.

43. As a result of Defendant's unauthorized use of the Hydrox Trademark and/or marks that are confusingly similar to the Hydrox Trademark, the public is likely to be misled and

confused as to the source, sponsorship, or affiliation of Defendant's retail products that bear the Hydrox name.

ANSWER: Diversey denies the allegations of paragraph 43 of the Complaint.

44. Defendant's conduct is willful and represents a deliberate attempt by Defendant to take a free ride off of Hydrox's goodwill in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

ANSWER: Diversey denies the allegations of paragraph 44 of the Complaint.

45. Defendant's wrongful conduct is likely to continue unless restrained and enjoined.

ANSWER: Diversey denies the allegations of paragraph 45 of the Complaint.

46. As a result of Defendant's wrongful conduct, Hydrox has suffered and will continue to suffer damages. Hydrox is entitled to injunctive relief and to an order compelling the impounding of all imitation trademarks being used, offered, advertised, marketed, installed, or distributed by Defendant. Hydrox has no adequate remedy at law for Defendant's wrongful conduct because, among other things, (a) Hydrox's trademarks are unique and valuable property which have no readily-determinable market value; (b) Defendant's infringement constitutes harm to Hydrox such that Hydrox could not be made whole by any monetary award; (c) if Defendant's wrongful conduct is allowed to continue, the public is likely to become further confused, mistaken, or deceived as to the source, origin, or authenticity of the infringing materials; and (d) Defendant's wrongful conduct, and the resulting damage to Hydrox, is continuing.

ANSWER: Diversey denies the allegations of paragraph 46 of the Complaint.

Count III

47. Hydrox repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

ANSWER: Answering paragraph 47 of the Complaint, Diversey adopts and restates the answers above.

48. Hydrox has common law rights in the Hydrox Trademark based on its continuous use of the Hydrox Trademark on products it sells and distributes.

ANSWER: Diversey is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48 of the Complaint.

49. Defendant's unauthorized use of the Hydrox Trademark to promote, advertise, market, and/or sell its goods is likely to cause confusion, mistake, and deception of the public as to the identity and origin of Defendant's goods, or as to a connection or affiliation with Hydrox, or permission from Hydrox, that does not exist, causing irreparable harm to Hydrox for which there is no adequate remedy at law. Defendant's conduct thus constitutes common law trademark infringement.

ANSWER: Diversey denies the allegations of paragraph 49 of the Complaint.

50. Despite their actual and constructive knowledge of Hydrox's ownership and prior use of the Hydrox Trademark, Defendant has continued to use the Hydrox Trademark without Hydrox's authorization or consent. Defendant's actions are deliberate and willful and have been done with the intention of trading upon the valuable goodwill built up by Hydrox in their Hydrox Trademark.

ANSWER: Diversey denies the allegations of paragraph 50 of the Complaint.

51. Hydrox has sustained injury, damage, and loss based on Defendant's actions.

ANSWER: Diversey denies the allegations of paragraph 51 of the Complaint.

Count IV

52. Hydrox repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint, and incorporates them herein by reference.

ANSWER: Answering paragraph 52 of the Complaint, Diversey adopts and restates the answers above.

53. Defendant's distribution, marketing, promotion, offering for sale, and sale of goods bearing the Hydrox Trademark constitutes false designations of origin and false descriptions or representations that Defendant's products originate from, or are offered, sponsored, authorized, licensed by, or otherwise somehow connected with Hydrox, when, in fact, they are not. As a result of Defendant's conduct, the public is likely to believe that Defendant's goods or services have originated from and/or have been approved by Hydrox.

ANSWER: Diversey denies the allegations of paragraph 53 of the Complaint.

54. Defendant's unauthorized use of the Hydrox Trademark falsely represents that Defendant's goods emanate from or are authorized by Hydrox and places beyond Hydrox's control the quality of such products, and the message that is associated with such products.

ANSWER: Diversey denies the allegations of paragraph 54 of the Complaint.

55. Defendant's conduct is willful, intended to reap the benefit of the goodwill associated with the Hydrox Trademark, has caused and continues to cause damage and injury to Hydrox, and constitutes common law unfair competition.

ANSWER: Diversey denies the allegations of paragraph 55 of the Complaint.

AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrines of laches, acquiescence and/or estoppel. Diversey manufactured and sold in the marketplace the general purpose cleaner in question under the HYDROX label at least more than three years prior to the Complaint in this action, and thereafter into 2011, and owned a federal registration and federal applications for that mark in the late 2000s. Yet Plaintiff made no objection until the filing of this suit, long after Diversey had ceased manufacture of the product under the HYDROX label. Diversey has been

prejudiced by Plaintiff's delay. Cf. 815 ILCS 505/10a(e) (analogous Illinois statute of limitations).

WHEREFORE, Diversey respectfully prays that the Court enter a judgment:

(a) Dismissing Plaintiff's claims against Diversey with prejudice and on the merits;

(b) Awarding Diversey its costs of suit herein;

(c) Awarding Diversey such attorneys' fees as may be allowed by applicable law; and

(d) Awarding Diversey such other relief as the Court may deem just and equitable under the circumstances.

Dated: November 25, 2013

Respectfully submitted,

By: s/ Colby A. Kingsbury

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CERTIFICATE OF SERVICE

I, Colby A. Kingsbury, an attorney, certify that I shall cause to be served a copy of the **CORRECTED ANSWER** upon the following individual(s) electronically via the Case Management/Electronic Case Filing System (“ECF”) as indicated, this 25th day of November, 2013.

CM/ECF
 Facsimile
 Federal Express
 Mail
 Messenger

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s/ Colby A. Kingsbury

CERTIFICATE OF SERVICE

The undersigned states under oath that on this 29th day of September, 2014, she served the above **Motion to Suspend Proceedings in View of Pending Civil Action Pursuant to Trademark Rule 510(a)** to James R. Steffen, Faegre Baker Daniels LLP, 2200 Wells Fargo Center at 90 South Seventh Street, Minneapolis, MN 55402-3901, by depositing same in the U.S. Post box at 77 West Wacker Drive, Chicago, IL 60601, postage prepaid, before 5 pm.



Laura J. K. Paulus
Legal Assistant

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