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Filing date: **11/25/2015**

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

Proceeding	92060849
Party	Plaintiff FINAM
Correspondence Address	KRISTEN A MOGAVERO COLLEN IP INTELLECTUAL PROPERTY LAW PC THE HOLYOKE-MANHATTAN BUILDING, 80 S HIGHLAND AVENUE OSSINING, NY 10562 UNITED STATES kmogavero@collenip.com, docket@collenip.com, jcollen@collenip.com
Submission	Motion to Strike
Filer's Name	Kristen A. Mogavero
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Signature	/Kristen A. Mogavero/
Date	11/25/2015
Attachments	R224_Motion to Strike_151125.pdf(194851 bytes)

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

<p>FINAM,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>Sunkiss Thermoreactors, Inc.,</p> <p style="text-align: center;">Registrant.</p>	<p>Cancellation No.: 92060849</p> <p>Registration No.: 1,200,333</p> <p>Mark: SUNKISS</p>
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PETITIONER'S MOTION TO STRIKE REGISTRANT'S UNTIMELY MOTION

Petitioner FINAM hereby requests that the Board strike Registrant's Motion filed on November 9, 2015 (DE 22) as untimely and in violation of the Board's Order of October 15, 2015 (DE 16).

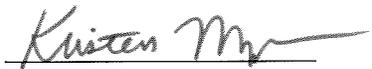
On February 6, 2015, Petitioner FINAM filed a Petition to Cancel Registrant's Registration No. 1,200,333 for the mark SUNKISS. The proceeding progressed in accordance with the Board's Scheduling Order of February 10, 2015.¹ DE 2. On September 18, 2015, a full month prior to the close of discovery, Petitioner filed a Motion for Leave to File an Amended Petition for Cancellation. DE 10. On September 24, 2015 Petitioner filed and served its Notice of Deposition on Written Questions. DE 12. On October 14, 2015, Registrant filed a Motion to Quash Petitioner's Notice of Deposition on Written Questions of Registrant's Rule 30(b)(6) Witness and for a Protective Order. DE 15.

¹ The only modification to the Board's Scheduling Order was a two week extension of the date for Initial Disclosures to which both parties consented. DE 6.

As a result of these outstanding motions, the Board issued an Order on October 15, 2015 suspending the proceedings and explicitly instructing the parties that “[a]ny paper filed during the pendency of these motions which is not relevant thereto will be given no consideration.” DE 16. On November 9, 2015, Registrant filed its untimely Motion (DE 22), which is not relevant to either of the pending motions. Registrant therefore respectfully requests that the Board strike Registrant’s untimely Motion and give it no consideration.²

Respectfully Submitted,

Dated: November 25, 2015

By: 
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JMC/KAM:rmw

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED ELECTRONICALLY WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE.

Date: November 25, 2015 By: 

² In the alternative, should the Board for any reason deny Petitioner’s Motion to Strike, Petitioner respectfully requests that the Board treat this as a motion to extend time for Petitioner to respond on the merits.

CERTIFICATE OF SERVICE

I, Richard Weinberg, hereby certify I caused a true copy of the foregoing Petitioner's Motion to Strike Registrant's Untimely Motion to be served upon Registrant's Attorney of Record at the following address via first class mail, postage pre-paid, on this 25th day of November, 2015:

Levy & Grandinetti
PO Box 18385
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Attn.: Ms. Rebecca J. Stempien Coyle
mail@levygrandinetti.com