

ESTTA Tracking number: **ESTTA726725**

Filing date: **02/12/2016**

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

Proceeding	92062182
Party	Defendant Pac-West Distributing NV LLC
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Submission	Answer
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Date	02/12/2016
Attachments	2016-02-12-Answer to Petition to Cancel - PWD.pdf(103484 bytes )

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

AFAB INDUSTRIAL SERVICES, INC.,	)	
	)	<b>Cancellation No. 92062182</b>
	)	
Petitioner,	)	Registration No. 4187497
	)	Mark: PWD
vs.	)	
	)	Registration No. 1,112,095
PAC-WEST DISTRIBUTING NV LLC	)	Registration No. 4,541,507
	)	Mark: RUSH
	)	
Registrant.	)	Registration No. 2,538,037
	)	Mark: POWER PAK PELLET
_____	)	

**ANSWER TO PETITION TO CANCEL**

Registrant, Pac-West Distributing NV LLC (“Registrant”) responds to the Petition to Cancel filed by AFAB Industrial Services, Inc. as follows:

1. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Petition and therefore denies the same.
2. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Petition and therefore denies the same.
3. Admitted.
4. Admitted.
5. Denied.
6. Denied.
7. Registrant admits that the Federal government has restricted Isobutyl Nitrite and Alkyl Nitrite pursuant to 15 U.S.C. 2057a and 2057b, but denies the remaining allegations of paragraph 7 which fall outside those two provisions.

8. Denied.
9. Denied.
10. Registrant is without knowledge or information sufficient to form a belief as to whether the product depicted in Paragraph 10 is a genuine PWD product and therefore denies the same.

**COUNT I – NO LAWFUL USE IN COMMERCE**

11. Registrant incorporates by references its responses to paragraphs 1 – 10 of the Petition as if full set forth herein.
12. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Petition and therefore denies the same.
13. Registrant admits that the Federal government has restricted Isobutyl Nitrite and Alkyl Nitrite pursuant to 15 U.S.C. 2057a and 2057b, but denies the remaining allegations of Paragraph 13 which fall outside those two provisions.
14. Registrant admits that the Federal government has restricted Isobutyl Nitrite and Alkyl Nitrite pursuant to 15 U.S.C. 2057a and 2057b, but denies the remaining allegations of Paragraph 14 which fall outside those two provisions.
15. Denied.
16. Denied.
17. Denied.
18. Denied.

**COUNT II – FRAUD**

19. Registrant incorporates by references its responses to paragraphs 1 – 18 of the Petition as if full set forth herein.
20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

**AFFIRMATIVE DEFENSES**

A. The Petition fails to state a claim upon which relief can be granted.

B. Registrant is at least entitled to a registration with a restriction related to 15 U.S.C. 2057a and 2057b.

C. Registrant intends to rely on the equitable defenses of laches, estoppel, and acquiescence.

Respectfully submitted,

Dated: February 12, 2016

By:   
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **ANSWER TO PETITION TO CANCEL** has been served on the attorney of record for Petitioner on February 12, 2016 by U.S. First Class Mail, postage prepaid, with a courtesy copy provided by email to:

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Mark Borghese