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

Proceeding	92062380
Party	Defendant Nucita Venezolana, C.A.
Correspondence Address	LAUREL V DINEFF DINEFF TRADEMARK LAW LIMITED 160 N WACKER DRIVE CHICAGO, IL 60606-1633 UNITED STATES tmlaw@dineff.com
Submission	Answer
Filer's Name	Justin R. Young
Filer's e-mail	jyoung@dineff.com,tmlaw@dineff.com
Signature	/justinryoung/
Date	11/16/2015
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

D.B.C. CORPORATION,)	
Petitioner,)	
)	
v.)	Cancellation No. 92062380
)	Registration No. 4732479
Nucita Venezolana C.A.)	
Registrant,)	
)	

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

REGISTRANT’S ANSWER TO PETITION FOR CANCELLATION

Nucita Venezolana C.A. (“Registrant”), for its answer to the Petition for Cancellation filed by D.B.C. Corporation (“Petitioner”) against Registrant’s Registration No. 4732479, pleads and avers as follows:

1. Answering Paragraph 1 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

2. Answering Paragraph 2 of the Petition for Cancellation Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

3. Answering Paragraph 3 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained

therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

4. Answering Paragraph 4 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

5. Answering Paragraph 5 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

6. Answering Paragraph 6 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

7. Answering Paragraph 7 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

8. Answering Paragraph 8 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

9. Answering Paragraph 9 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

10. Answering Paragraph 10 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

11. Answering Paragraph 11 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

12. Answering Paragraph 12 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

13. Answering Paragraph 13 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

14. Answering Paragraph 14 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations

contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

15. Answering Paragraph 15 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

16. Answering Paragraph 16 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

17. Answering Paragraph 17 of the Petition for Cancellation, Registrant partially admits that Registrant filed US Application No. 86/115244 but clarifies that the application is for the mark “PIRUCREAM & Design (in color).” Registrant also admits having filed US Application No. 86/115230 for the mark PIRUCREAM.

18. Answering Paragraph 18 of the Petition for Cancellation, Registrant admits the allegations contained therein.

19. Answering Paragraph 19 of the Petition for Cancellation, Registrant partially admits having filed on February 12, 2015 Statements of Use in connection with its Applications Nos. 86/115244 and 86/115230, after the USPTO searched its records and found no similar registered or pending marks that would bar the registrations of Registrant’s marks under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02. Registrant objects to the submission of Exhibit F as untimely. *See* TBMP §377 and, thus, denies the remaining allegations, leaving Petitioner to its strict proof at trial.

20. Answering Paragraph 20 of the Petition for Cancellation, Registrant objects to the submission of Exhibit F as untimely and, thus, denies all the allegations, leaving Petitioner to its strict proof at trial.

21. Answering Paragraph 21 of the Petition for Cancellation, Registrant objects to the submission of Exhibit F as untimely and, thus, denies all the allegations, leaving Petitioner to its strict proof at trial.

22. Answering Paragraph 22 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

23. Answering Paragraph 23 of the Petition for Cancellation, Registrant admits the allegations contained therein.

24. Answering Paragraph 24 of the Petition for Cancellation, Registrant admits the allegations contained therein.

25. Answering Paragraph 25 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

26. Answering Paragraph 26 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

27. Answering Paragraph 27 of the Petition for Cancellation, Registrant admits the allegations contained therein.

28. Answering Paragraph 28 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

29. Answering Paragraph 29 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

30. Answering Paragraph 30 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

31. Answering Paragraph 31 of the Petition for Cancellation, Registrant admits the allegations contained therein.

32. Answering Paragraph 32 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

33. Answering Paragraph 33 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

34. Answering Paragraph 34 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

35. Answering Paragraph 35 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

36. Answering Paragraph 36 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

37. Answering Paragraph 37 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

38. Answering Paragraph 38 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

39. Answering Paragraph 39 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

40. Answering Paragraph 40 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

41. Answering Paragraph 41 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

42. Answering Paragraph 42 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

43. Answering Paragraph 43 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

44. Answering Paragraph 44 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

45. Answering Paragraph 45 of the Petition for Cancellation, Registrant admits the allegations contained therein.

46. Answering Paragraph 46 of the Petition for Cancellation, Registrant admits the allegations contained therein.

47. Answering Paragraph 47 of the Petition for Cancellation, Registrant partially admits that Petitioner made several unsubstantiated allegations in Cancellation No. 92057303 but denies the remaining allegations, leaving Petitioner to its strict proof at trial.

48. Answering Paragraph 48 of the Petition for Cancellation, Answering Paragraph 46 of the Petition for Cancellation, Registrant admits the allegations contained therein.

49. Answering Paragraph 49 of the Petition for Cancellation, Registrant partially admits that Respondent's counsel in Cancellation No. 92057303 withdrew but denies the remaining allegations, leaving Petitioner to its strict proof at trial.

50. Answering Paragraph 50 of the Petition for Cancellation, Registrant denies that a judgment against Registration No. 4049693 was entered on March 5, 2015 and demands that Petitioner provides specific proof thereof.

51. Answering Paragraph 51 of the Petition for Cancellation, Registrant partially admits that Respondent's file applications to register the PIRUCREAM marks through Dineff Trademark Law Limited but denies the remaining allegations, leaving Petitioner to its strict proof at trial.

52. Answering Paragraph 52 of the Petition for Cancellation, Registrant partially admits that Respondent was aware of Petitioner's registration for the mark PIROULIN but denies the remaining allegations, leaving Petitioner to its strict proof at trial.

53. Answering Paragraph 53 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

54. Answering Paragraph 54 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

55. Answering Paragraph 55 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

56. Answering Paragraph 56 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

57. Answering Paragraph 57 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

58. Answering Paragraph 58 of the Petition for Cancellation, Registrant objects to the submission of Exhibit F as untimely and, thus, denies all the allegations contained therein, leaving Petitioner to its strict proof at trial.

59. Answering Paragraph 59 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

60. Answering Paragraph 60 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

61. Answering Paragraph 61 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

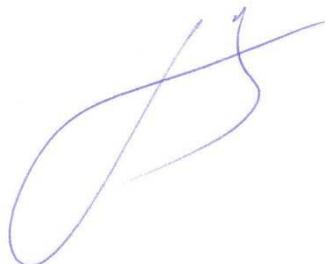
62. Answering Paragraph 62 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands that Petitioner provides specific proof thereof.

AFFIRMATIVE DEFENSES

1. No damage or injury has resulted, will result, or is likely to result to Petitioner from the maintenance of registration of Registrant's marks due to, among other factors, the difference between the marks and the distinct and different nature of each party's goods provided with their marks.

In view of the foregoing, Registrant contends that this cancellation is groundless and baseless in fact; that Petitioner has not shown wherein it will be, or is likely to be, damaged by the continued registration of Registrant's mark; and Registrant prays that the Board dismiss this cancellation with prejudice and for such other relief as the Board may deem appropriate.

Nucita Venezolana C.A.



Dated: November 16, 2015

By and through their attorney
Justin R. Young
DINEFF TRADEMARK LAW LIMITED
160 North Wacker Drive
Chicago, Illinois 60606
(312) 338-1000
jyoung@dineff.com

Certificate of Service

I hereby certify that a copy of the foregoing REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION was served this date November 16, 2015 upon Petitioner's Attorney address of record by First-Class mail, postage prepaid, as follows:

Carla C. Calcagno, Esq.
CALCAGNO LAW PLLC
1250 24th Street N.W. Suite 300
Washington, D.C. 20037
United States

A handwritten signature in blue ink, appearing to read "Justin R. Young", is written over a horizontal line.

Justin R. Young