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Filing date: **08/26/2016**

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

Proceeding	92063349
Party	Defendant GlueBoss Adhesive Company LLC
Correspondence Address	TERENCE J LINN GARDNER LINN BURKHART & FLORY LLP 2851 CHARLEVOIX DRIVE SE, STE 207 GRAND RAPIDS, MI 49546 UNITED STATES linn@glbf.com, visser@glbf.com
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Terence J. Linn
Filer's e-mail	linn@glbf.com, visser@glbf.com
Signature	/Terence J. Linn/
Date	08/26/2016
Attachments	Registrants Motion to Amend Answer to Amended Petition w Ex 1.pdf(50156 bytes)

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

Accumetric, LLC,)	
)	Cancellation No. 92063349
Petitioner,)	
)	Trademark Registration No. 4,244,791
v.)	
)	
GlueBoss Adhesive Company, LLC)	
)	
Registrant.)	

**REGISTRANT’S CONSENTED MOTION TO AMEND ANSWER TO AMENDED
PETITION FOR CANCELLATION AND INCORPORATED BRIEF**

Registrant, GlueBoss Adhesive Company, LLC, through counsel, moves to amend its Answer to the Amended Petition for Cancellation. A proposed Registrant’s Amended Answer to Amended Petition for Cancellation is attached hereto as Exhibit 1. This motion is made with the written consent of counsel for Petitioner Accumetric, LLC. No new claims or defenses are added.

The bases for this motion is that:

Registrant’s Answer to Amended Petition for Cancellation contains a typographical error in the Fifth Affirmative Defense. In that Affirmative Defense the term “Registrant” was erroneously used in as the first word in place of the correct term “Petitioner.” Registrant wants to correct that typographical error and be clear that it is the “Petitioner” that is precluded from cancellation under that defense.

Additionally, the preamble paragraphs of the Petition for Cancellation state that Petitioner is seeking cancellation under the Trademark Act, and is followed by Petitioner’s allegations: “As grounds therefore, it is alleged:”. The preamble paragraphs are legal in nature and do not require

response. Nonetheless, Registrant wants to be clear that those preamble paragraphs are not admitted, and therefore the Amended Response includes an express response to the preamble.

Pursuant to Fed.Civ.P. 15(a)(2), 37 C.F.R. §§ 2.107 and 2.115, a pleading may be amended more than twenty one days after filing either with the opposing party's written consent or the Board's leave. TBMP § 507.01. The Board has made it clear that it liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires. TBMP § 507.02.

In this instance the pleading sought to be corrected, Registrant's Answer to Amended Petition for Cancellation was filed July 8, 2016. Discovery in this proceeding has just opened two weeks ago on August 14.

By exchange of email on August 26, counsel for Petitioner provided written consent to the amendment of the Answer to Amended Petition in the form submitted herewith.

Registrant's motion should be granted.

Respectfully submitted,

GlueBoss Adhesive Company, LLC

Date: August 26, 2016

By: /Terence J. Linn/
Terence J. Linn
GARDNER, LINN, BURKHART & FLORY, LLP
2851 Charlevoix Drive SE, Suite 207
Grand Rapids, Michigan 49546
(616) 975-5500 (Telephone)
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the 26th day of August, 2016, upon the following via Email per agreement between the parties:

Samantha M. Quimby
Kathryn A. Comella
William Lehner
Frost Brown Todd LLC
10 W Broad Street, Ste 2300
Columbus, OH 43215-3484
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fbtiplitigation@fbtlaw.com

/s/ Terence J. Linn
August 26, 2016

EXHIBIT 1

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

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v.)	
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GlueBoss Adhesive Company, LLC)	
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Registrant.)	

**REGISTRANT'S AMENDED ANSWER TO AMENDED PETITION FOR
CANCELLATION**

Registrant, GlueBoss Adhesive Company, LLC, by and through its attorneys, hereby answers the allegations set forth in the Petition for Cancellation as follows:

The allegations of the preamble paragraph are legal and no answer is required. To the extent a further answer is required, Registrant is without knowledge or information sufficient to form a belief as to the allegations as to the place of business of Petitioner and therefor denies the same, admitted that Registrant is the owner of Registration No. 4,244,791 for the mark depicted in Registration No. 4,244,791 for acrylic based sealants and adhesives in International Class 17 which is less than five years old, and the remaining allegations are denied.

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1. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 1 and therefore denies the same.
2. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 2 and therefore denies the same.
3. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 3 and therefore denies the same.

4. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 4 and therefore denies the same.

5. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 5 and therefore denies the same.

6. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 6 and therefore denies the same.

7. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 7 and therefore denies the same.

8. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 8 and therefore denies the same.

9. Registrant objects to Petitioner's characterization of "the GLUEBOSS Registered Mark" to the extent that it explicitly or implicitly characterizes Registrant's mark other than as Registered in Reg No. 4,244,791, and to the extent that Petitioner's characterization is inaccurate it is denied. Notwithstanding this objection and without waiver thereof, Registrant admits that Registrant applied for the registered mark of Registration No. 4,244,791 for use on acrylic based sealants and adhesives under Section 1(a) of the Trademark Act on January 25, 2012. Registrant is without knowledge or information sufficient to form a belief as to the remaining allegations of this paragraph and therefore denies the same.

10. Registrant admits that Registrant's Registration No. 4,244,791 and Registered Mark of Reg. No. 4,244,791 was registered on November 20, 2012 for use in connection with acrylic based sealants and adhesives in International Class 17. Applicant is without knowledge or information sufficient to form a belief as to the remaining allegations of this paragraph and therefore denies the same.

11. Registrant admits that Registrant's Registered Mark of Reg. No. 4,244,791 claims a first use date of January 19, 2012. Registrant is without knowledge or information sufficient to form a belief as to the remaining allegations of this paragraph and therefore denies the same.

12. Admitted.

13. Denied.

14. Denied.

15. Registrant is without knowledge or information sufficient to form a belief as to the allegations of the first sentence of paragraph 15 and therefore denies the same. The remaining allegations of paragraph 15 are denied.

16. Denied.

17. Denied.

18. Denied.

FIRST AFFIRMATIVE DEFENSE

19. The Petition for Cancellation fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

20. There is no likelihood of confusion, mistake or deception between Registrant's Registered Mark 4,244,791 and any mark claimed by Petitioner. Registrant's mark is a member of a family of marks that further eliminates any likelihood of confusion, mistake or deception between Registrant's Registered Mark 4,244,791 and any mark claimed by Petitioner.

THIRD AFFIRMATIVE DEFENSE

21. The alleged mark or marks of Petitioner is not famous and has not achieved the status of a famous mark as provided under the Trademark Act. Petitioner does not have famous trademark rights as required under Section 43(c) of the Trademark Act.

FOURTH AFFIRMATIVE DEFENSE

22. Registrants' Registered mark of Reg. No. 4,244,791 does not dilute any rights of Petitioner, does not dilute any famous trademark rights of Petitioner and Registrant and its activities do not dilute any rights of Petitioner under Section 43(c) of the Trademark Act.

FIFTH AFFIRMATIVE DEFENSE

23. Petitioner is precluded from cancellation of Registrant's Mark under the Doctrines of Laches, Estoppel, Acquiescence and Waiver.

Deleted: Registrant

WHEREFORE, Registrant, GlueBoss Adhesives Company, LLC, respectfully requests judgment dismissing the Petitioner's Petition for Cancellation of Registration No. 4,244,791 and that the Petition be denied in all respects.

Respectfully submitted,

GlueBoss Adhesive Company, LLC

Date: August 26, 2016

By: Terence J. Linn
Terence J. Linn
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I hereby certify that a copy of the foregoing document was served August 26, 2016 upon the following via Email per agreement between the parties:

Samantha M. Quimby
Kathryn A. Comella
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/s/ Terence J. Linn

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1. Registrant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 1 and therefore denies the same.
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20. There is no likelihood of confusion, mistake or deception between Registrant's Registered Mark 4,244,791 and any mark claimed by Petitioner. Registrant's mark is a member of a family of marks that further eliminates any likelihood of confusion, mistake or deception between Registrant's Registered Mark 4,244,791 and any mark claimed by Petitioner.

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Respectfully submitted,

GlueBoss Adhesive Company, LLC

Date: August 26, 2016

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/s/ Terence J. Linn