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

Proceeding	92063839
Party	Defendant Parasole IP, LLC
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
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<b>MOZZA, LLC,</b>  Petitioner,  v.  <b>PARASOLE IP, LLC</b>  Registrant.	Registration No.: 3,975,466  Mark: MOZZA MIA  Cancellation No.: 92063839
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**REGISTRANT’S ANSWER TO PETITION FOR CANCELLATION**

Registrant, Parasole IP, LLC (hereinafter “Registrant”), in Answer to the Petition for Cancellation filed by Mozza, LLC (hereinafter “Petitioner”), against Registration Number 3,975,466 for MOZZA MIA (hereinafter “Registrant’s MOZZA mark”), states as follows:

In response to the preamble appearing on the caption page of the Petition for Cancellation, Registrant denies any likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), and/or dilution under Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c), caused by the registration of Registrant’s MOZZA mark with any of Petitioner’s marks noted herein.

1. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Petition for Cancellation, and therefore denies the allegations.

2. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Petition for Cancellation, and therefore denies the allegations.

3. Registrant admits that current records on the United States Patent and Trademark Office website contains the identification of the marks as noted in Paragraph 3 of the Petition for Cancellation. As to the rest of the allegations contained in Paragraph 3 of the Petition for Cancellation, Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and as such denies the allegations.

4. Registrant admits that current records on the United States Patent and Trademark Office website contains the information related to the marks as noted in Paragraph 4 of the Petition for Cancellation.

5. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Petition for Cancellation, and therefore denies the allegations.

6. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Petition for Cancellation, and therefore denies the allegations.

7. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Petition for Cancellation, and therefore denies the allegations.

8. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Petition for Cancellation, and therefore denies the allegations.

9. Registrant admits to the allegations in Paragraph 9 of the Petition for Cancellation.

10. Registrant admits to the allegations in Paragraph 10 of the Petition for Cancellation.

11. Registrant admits to the allegations in Paragraph 11 of the Petition for Cancellation.

12. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Petition for Cancellation, and therefore denies the allegations.

13. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Petition for Cancellation, and therefore denies the allegations.

14. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Petition for Cancellation, and therefore denies the allegations.

15. Registrant notes that Paragraph 15 contains no new allegations, and hereby incorporates the prior responses presented herein as if fully set forth herein.

16. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Petition for Cancellation, and therefore denies the allegations.

17. Registrant denies the allegations contained in Paragraph 17 of the Petition for Cancellation.

18. Registrant denies the allegations contained in Paragraph 18 of the Petition for Cancellation.

19. Registrant denies the allegations contained in Paragraph 19 of the Petition for Cancellation.

20. Registrant denies the allegations contained in Paragraph 20 of the Petition for Cancellation.

21. Registrant denies the allegations contained in Paragraph 21 of the Petition for Cancellation.

22. Registrant notes that Paragraph 22 contains no new allegations, and hereby incorporates the prior responses presented herein as if fully set forth herein.

23. Registrant denies the allegations contained in Paragraph 23 of the Petition for Cancellation.

24. Registrant denies the allegations contained in Paragraph 24 of the Petition for Cancellation.

25. Registrant denies the allegations contained in Paragraph 25 of the Petition for Cancellation.

26. Registrant denies the allegations contained in Paragraph 26 of the Petition for Cancellation.

### **AFFIRMATIVE DEFENSES**

27. Registrant notes that there is no likelihood of confusion, mistake or deception between the Registrant's MOZZA mark and Petitioner's marks noted in the Petition for Cancellation. Registrant is informed and believes, and thus alleges, that consumers viewing Registrant's MOZZA mark and the Petitioner's marks in the context of the services, products, and/or business of the two companies would not be confused by the respective use of Registrant's MOZZA mark and the Petitioner's marks. Furthermore, Registrant is informed and believes, and thus alleges, that there has been no actual confusion reported to Registrant or any other party regarding Registrant's MOZZA mark and Petitioner's marks.

28. Registrant's MOZZA mark and Petitioner's marks are not confusingly similar in sound, sight, meaning or overall commercial impression. Registrant is informed and believes, and thus alleges, that consumers viewing Registrant's MOZZA mark and the Petitioner's marks in the context of the services, products, and/or business of the two companies would not be confused by the respective use of Registrant's MOZZA mark and the Petitioner's marks. Furthermore, Registrant is informed and believes, and

thus alleges, that there has been no actual confusion reported to Registrant or any other party regarding Registrant's MOZZA mark and Petitioner's marks.

29. The Petition for Cancellation and all claims therein must fail pursuant to the doctrines of acquiescence, estoppel, laches, and/or waiver. Registrant is informed and believes, and thus alleges, that Petitioner knew that Registrant filed an application to register Registrant's MOZZA mark; Petitioner did not object to Registrant's use and registration at the time the use was commenced; and when the application was published for opposition, and that Registrant used Registrant's MOZZA mark in reliance on the fact that no opposition had been filed.

30. Registrant is informed and believes, and thus alleges, that Petitioner has not exclusively used the term "mozza" in commerce, and has not established the right to use the marks containing "mozza" based on exclusive use in commerce. The term "mozza" has been used by numerous private and retail entities throughout the United States other than by Petitioner.

31. Registrant further alleges that Petitioner's marks have not obtained the level of fame, renown, and/or distinctiveness sufficient to obtain relief as a famous mark under the Lanham Act, and specifically not obtained the level of fame or distinctiveness under 15 U.S.C. §1125 (c), or under other applicable state or federal law.

32. Registrant alleges that the United States Patent and Trademark Office has permitted registration of other marks that use the term "mozza" for use on products and services sold in commerce, and thus any one trademark that incorporates "mozza" has

a narrow scope of protection. Registrant further alleges that due to these circumstances, any minor differences in appearance or sound of the trademark is sufficient to avoid confusion in the mind of the consumer.

WHEREFORE, Registrant respectfully requests that the Petition for Cancellation be DENIED, and the Registrant's MOZZA mark be deemed to have incontestable status pursuant to 15 U.S.C. §§1065 and 1115.

Dated: July 15, 2016

By: /Larrin Bergman/

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ATTORNEY FOR REGISTRANT

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that on this July 15, 2016, a copy of the foregoing **REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION** is being electronically filed with the United States Patent and Trademark Trial and Appeal Board, at <http://estta.uspto.gov/>.

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ATTORNEY FOR REGISTRANT

**CERTIFICATE OF SERVICE**

I hereby certify that on this July 15, 2016, a copy of the foregoing **REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION** has been served upon Applicant, addressed as follows:

**Via First-Class U.S. Mail, postage prepaid, and Electronic Delivery**

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