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

Proceeding	91198798
Party	Defendant Pharmachem Laboratories, Inc.
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Date	04/11/2011
Attachments	answer.pdf (4 pages)(202384 bytes)

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

The Republic of Tea, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91198798
)	
Pharmachem Laboratories, Inc.,)	
)	
Applicant.)	

ANSWER

Applicant Pharmachem Laboratories, Inc. (“Pharmachem”), by its undersigned attorneys, as and for its Answer to the Notice of Opposition herein (“the Notice”), states as follows.

1. Applicant admits it filed an application to register the mark GET IT ENERGIZED on June 3, 2010 for (i) Dietary supplemental drinks (Class 5), and (ii) Energy drinks; Soft drinks; Soft drinks, namely, carbonated soft drinks, low calorie soft drinks, non-carbonated soft drinks; Sports drinks (Class 32). Applicant denies that it filed an application to register the mark GET IT ENERGIZED for goods in Class 30.

2. Applicant refers to the U.S.P.T.O. records of U.S. Registration Nos. 3,320,849, 3,320,853, 3,320,856, 3,320,856, 2,596,054, 3,596,055, 3,596,056, 3,320,850, 3,596,057, 3,596,058, 3,320,851, 3,596,059, 3,596,060, 3,320,855 and 3,596,061. Applicant lacks knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 2 of the Notice, and accordingly denies same.

3. Applicant admits that it filed its aforesaid application to register the trademark

GET IT ENERGIZED on June 3, 2010, and that it has not yet used the mark on the goods identified in the application, but denies the remaining allegations of paragraph 3 of the Notice.

4. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 4 of the Notice, and accordingly denies same.

5. Applicant refers to the U.S.P.T.O. records of the registrations and applications listed in paragraph 5 of the Notice, but lacks knowledge or information sufficient to form a belief as to the remaining allegations of said paragraph, and accordingly denies same.

6. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 6 of the Notice, and accordingly denies same.

7. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 7 of the Notice, and accordingly denies same.

8. Applicant refers to the U.S.P.T.O. records of Application Serial No. 85/053,975, admits that Opposer obtained an extension of time to March 2, 2011 to file a Notice of Opposition, but lacks knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 8 of the Notice, and accordingly denies same.

9. Applicant admits that it has not yet used the mark on the goods identified in its application to register the mark GET IT ENERGIZED, but denies the remaining allegations of paragraph 9 of the Notice.

10. Applicant refers to the U.S.P.T.O. records of the registrations referred to in paragraph 10 of the Notice.

11. Applicant denies the allegations of paragraph 11 of the Notice.

12. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 12 of the Notice, and accordingly denies same.

13. Applicant denies the allegations of paragraph 13 of the Notice.
14. Applicant admits that its mark GET IT ENERGIZED begins with the words “GET” and “IT”, but denies the remaining allegations of paragraph 14 of the Notice.
15. Applicant denies the allegations of paragraph 15 of the Notice.

FIRST AFFIRMATIVE DEFENSE


The Notice fails to state a claim upon which the relief requested by Opposer can be granted.

SECOND AFFIRMATIVE DEFENSE

There is no likelihood of confusion, mistake or deception because Applicant’s mark GET IT ENERGIZED is different in sight, sound and meaning from all of Opposer’s marks referred to in the Notice.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety, that Application Serial No. 85/053,975 proceed to registered forthwith, and that the Board grant such further relief as is just and proper.

Dated: New York, New York
April 11, 2011



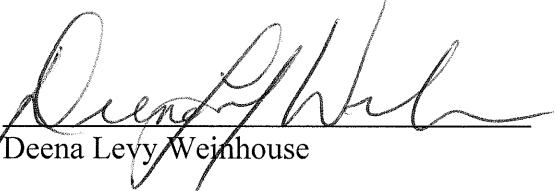
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ANSWER was served by e-mail, and first class mail postage pre-paid, on April 11, 2011 upon Opposer's attorneys:

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