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Filing date: **10/17/2016**

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

Proceeding	91230056
Party	Defendant Agroindustrias Tres Generaciones SAC
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Submission	Answer
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Date	10/17/2016
Attachments	Answer and Affirmative Defenses.pdf(126836 bytes)

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

AMAZON SUN, LLC

Opposer

Opposition No: 91230056
Mark: SACRED VALLEY
Serial No: 86787837
Filed: September 14, 2016

V

AGROINDUSTRIAS TRES GENERACIONES SAC
Applicant

ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW, Applicant, by and through undersigned counsel, and files its Answer and Affirmative Defenses and in support hereof states:

1. Applicant Admits the allegations contained in Paragraph 5.
2. Applicant Denies the allegations contained in Paragraphs 4, 8, 10 (N.B. Opposer failed to include a paragraph 9 in the opposition), 12, and 13, and Applicant demands strict proof of same at trial.
3. Applicant is without sufficient knowledge to admit or deny the allegations contained in Paragraphs 1, 2, 3, 6, 7 (as to whether Opposer actually uses it mark in the trademark sense), and 11, and Applicant demands strict proof of same at trial.

AFFIRMATIVE DEFENSES

4. Opposer's marks is weak and entitled to a limited scope of protection.
5. Applicant and Opposer's marks can peacefully coexist in the marketplace.
6. Opposer's have not acquired secondary meaning in the marks.

7. Applicant and Opposer's marks are unlikely to cause confusion in the marketplace given the goods covered by Applicant's application.
8. Applicant and Opposer's channels of trade are different.
9. Applicant provides a specialized product which is completely distinguishable from Opposer's products.
10. Consumers of Applicant's products are highly sophisticated and unlikely to be confused by the marks.
11. Opposer is barred by laches in bringing this opposition.
12. Opposer has acquiesced to Applicant's use of its mark.
13. Opposer does not consistently used indications to show the public that its marks are trademarks or otherwise source indicators.
14. Opposer has failed to police its alleged mark.
15. Opposer has failed to apply to protect its alleged mark.
16. Opposer has failed to acquired secondary meaning in its alleged mark.
17. Opposer has failed to use all the goods which it claims.
18. There are many other uses of SACRED VALLEY in the marketplace not causing confusion.
19. There has been no actual confusion between the marks.
20. Opposer's use of its mark is merely descriptive with respect to its goods.
21. Opposer has failed to sufficiently develop its brand for consumers to associate the mark with Opposer.
22. Opposer has made only token use of its mark.
23. Opposer has failed to use its mark in interstate commerce.

24. Opposer lacks standing to bring this action as it has not sufficiently identified any trademark rights that it might have.
25. Opposer has failed to continually use its mark.
26. Opposer's use of the mark is geographically misdescriptive
27. Applicant's mark is well-known through use for generations and such use will be immediately recognizable in the United States.
28. Opposer had its registration cancelled on March 6, 2015, for failure to file an acceptable declaration under Section 8 showing that it does not have the trademark rights it claims.
29. On information and belief, the representative of Opposer is engaged in unauthorized practice before the TTAB.

WHEREFORE, Applicant requests that the subject opposition be dismissed together with such further relief is equitable.

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ELECTRONIC MAILING CERTIFICATE

I hereby certify that the foregoing Motion is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board (“ESTTA”) and by mail and email to Giancarlo Marino 81 Pondfield Road, #200, Bronxville, NY 10708, marino88777@gmail.com on this 17th day of October, 2016.

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