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Enclosures: Certificate of Mailing (1 pg.)
Response to Order To Show Cause (4 pg.)
Including Declaration of C.J. Rapp;
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02-16-2006

CERTIFICATE OF SERVICE

I, **STEPHEN B. SALAI**, a **PARTNER** with the firm of **HARTER, SECREST & EMERY LLP**,
hereby certify that I have served the within **RESPONSE TO ORDER TO SHOW**
CAUSE by causing a copy of the same to be mailed, postage-prepaid to:

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Dated: February 10, 2006

A handwritten signature in black ink, appearing to read 'S. Salai', written over a horizontal line.

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

NARONG DEERITDECHA

PETITIONER,

v.

CANCELLATION No. 92042473

THE JOLT COMPANY, INC,

REGISTRANT

RESPONSE TO ORDER TO SHOW CAUSE

Dear Sir:

The Jolt Company, Inc. ("Registrant") submits this response to the Order To Show Cause why the cancellation of applicants registration under Section 8 should not be deemed to be the equivalent of a cancellation by request of respondent without the consent of the adverse party, and should not result in entry of a judgment against respondent as provided by Trademark Rule 2.134(a)..

Petitioner notes that on December 24, 2005, Registration No. 2,231,502 was cancelled under Section 8. However, due to the disparate nature of the standards involved, cancellation of a registration for failure to file a Section 8 affidavit does not necessarily lead to a finding of abandonment as alleged by Petitioner in this proceeding.

POINT I

**THE REGISTRATION WAS CANCELLED FOR NON-USE;
HOWEVER, THERE WAS NO ABANDONMENT OF THE MARK**

The registration for the mark ZONE was issued on March 16, 1999. On or before March 16, 2005, Registrant was required to file an affidavit pursuant to 15 U.S.C. §1058(b) showing current use of the mark, or alternatively, nonuse of the mark due to special circumstances. While Registrant has used the mark in commerce in the past, it was not currently using the mark in commerce at the

time the affidavit under Section 8 was due to be filed. Moreover, this non-use was not due to special circumstances. Accordingly, Registrant was unable to file a Section 8 Affidavit, because Registrant could attest to neither current use, nor the existence of special circumstances excusing non-use.

Pursuant to 15 U.S.C. §1127, a mark is deemed abandoned, "When its use has been discontinued with intent not to resume such use." While Registrant was not using ZONE in commerce at the time the affidavit under section 8 had to be filed, as shown in the attached affidavit of C. J. Rapp, President of registrant, Registrant fully intends to resume such use. Registrant has been, and is now, actively engaged in attempts to license the mark, and fully intends to license the mark in the future.

While Registrant recognizes that its registration was appropriately cancelled for failure to file the Section 8 affidavit, Registrant has not abandoned the mark ZONE. Registrant respectfully submits that the grant of judgment to Petitioner would constitute a finding of abandonment when the elements for abandonment under 15 U.S.C. §1127 have not been established.


CONCLUSION

Based on the foregoing, Registrant respectfully requests that the Board deny Petitioner's Motion to Resume the Proceedings and for Judgment.

Dated: February 10, 2006

Respectfully submitted

By: _____



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THE JOLT COMPANY, INC,

REGISTRANT

DECLARATION OF C. J. RAPP

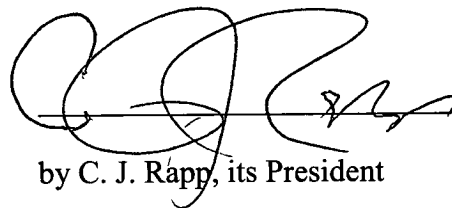
I am the President of registrant The Jolt Company, Inc. and am personally familiar with the facts set forth herein. The registration for the mark ZONE was issued on March 16, 1999. On or before March 16, 2005, Registrant was required to file an affidavit pursuant to 15 U.S.C. §1058(b) showing current use of the mark, or alternatively, nonuse of the mark due to special circumstances. While Registrant has used the mark in commerce in the past, it was not currently using the mark in commerce at the time the affidavit under Section 8 was due to be filed. Moreover, this non-use was not due to special circumstances. Accordingly, Registrant was unable to file a Section 8 affidavit, because Registrant could attest to neither current use, nor the existence of special circumstances excusing non-use.

Registrant has had an intention to resume use of the mark continuously since sales were suspended. Registrant has been actively and continuously attempting to resume sales from the time of the last sale to the present. The beverage industry went through an unprecedented degree of consolidation from 2000 to 2005 which severely limited the number of beverage distributors in the U.S. During this period the Registrant was engaged in advanced negotiations with two substantial

beverage companies with national distribution capabilities to engage in sales of Zone. Furthermore, Registrant has agreed on the essential terms of a license agreement with one or more parties that will resume sales of the mark within the first six months of 2006. Therefore, there has never been a time that the Registrant was not vigorously or actively engaged in attempts to sell the mark throughout the U.S.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the registration, declares that he is properly authorized to execute this declaration on behalf of the registrant; and that all statements made of his own knowledge are true; and that all statements made on information and belief are believed to be true.

The Jolt Company, Inc.

A handwritten signature in black ink, appearing to read 'C. J. Rapp', is written over a horizontal line. The signature is stylized and cursive.

by C. J. Rapp, its President