

TTAB

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

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
U.S.A

Trademark Assistance Center
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, VA 22314

Mailed by Federal Express: March 17, 2006

ANSWER

79000958

**Subject: Answer to Cancellation procedure. N° 9204534, filed to cancel
Registration No. 3023852, VITATEA.**

(Pedro María Barroeta Urquiza
Calle San Juan de la Cruz 3-Portal 2, 1° B
E-28223 Pozuelo de Alarcón (Madrid)

Cancellation N° 92045434
Re. N° 3023852

Carole F. Barrett
Howard Rice et alia
Three Embarcadero Center, 7th Floor
San Francisco, CA 94111-4024

Vitasoy Internacional Holdings Limited
V.
Pedro María Barroeta Urquiza)

Dear Sir:

Pedro María Barroeta Urquiza, in reply to the Cancellation procedure mailed on February 10, 2006, I would like to make the following observations:

1. What the Petitioner claims in Points 6, 7 and 8 is not true, because the VITATEA mark has been used in the United States. Green Tea Soda VITATEA®, as you can see on the website www.unidrinks.com, was presented at the FANCY FOOD Fair held in New York in 27-29 June 2004 in the stand pertaining to EUROBUBBLIES, INC, with headquarters at 1417 6th Street, 302 Santa Monica, CA 90401. It has been promoted and advertised to many of this company's clients. Therefore, registration of the VITATEA trademark is duly consolidated by an effective use in the United States market.

03-20-2006

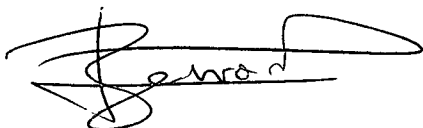
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2. The Petitioner's claims regarding various trademark registrations belonging to them does not justify any right to cancel the VITATEA trademark, which has already been granted and is in force in the American market. There is no denominative identity between the trademarks cited and the VITATEA mark, which must be considered as a whole, as the USPTO did in their prior analysis of similarities, which did not identify any problem with existing trademarks. Furthermore, and as can be easily confirmed, many other trademarks incorporating the term VITA currently coexist without problems since they compose very different denominations, not only for products in Class 30, but also for other classes of food and beverages. Among them I would mention VITA BY S.PELLEGRINO, Reg. No. 2298309 and VITALITY, Reg. No. 2802591, which are both connected with tea.

For all the above, I earnestly request you to deny the application for cancellation that has been filed, leaving the duly registered VITATEA trademark as is so that we can continue marketing and business activity in the United States, a country that has always protected free trade and entrepreneurial liberty.

If you require further information to complete this answer, please do not hesitate to contact me.

Yours sincerely,



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