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

Proceeding	92048270
Party	Defendant GENERAL NUTRITION INVESTMENT COMPANY
Correspondence Address	GENERAL NUTRITION INVESTMENT COMPANY 300 SIXTH STREET PITTSBURGH, PA 15222 UNITED STATES
Submission	Answer
Filer's Name	Jennifer S. Sickler
Filer's e-mail	houston.ip@gardere.com
Signature	/Jennifer S. Sickler/
Date	11/26/2007
Attachments	Answer 129891-9127.pdf (4 pages)(143500 bytes)

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

D. Stiles,	§	
	§	
Petitioner,	§	Cancellation No. 92048270
	§	
v.	§	U.S. Reg. No. 2,712,051
	§	
General Nutrition Investment Company,	§	
	§	
Registrant.	§	
	§	

**REGISTRANT GENERAL NUTRITION INVESTMENT COMPANY’S
ANSWER TO PETITION FOR CANCELLATION**

Registrant General Nutrition Investment Company (“GNIC”) files this response to the allegations made by Petitioner D. Stiles (“Stiles”) contained in the Petition to Cancel dated October 12, 2007.

With respect to the allegations contained in the introductory paragraphs of the Petition, GNIC is without sufficient knowledge to form a belief as to the truth of the allegations regarding Petitioner’s address. GNIC admits that it is the owner of the U.S. Trademark Registration No. 2,712,051 (the “Registration”). GNIC admits that its state of incorporation and address are correct as stated. GNIC denies that Stiles has or will be damaged by the existence of GNIC’s Registration and denies that Stiles is entitled to any relief.

1. GNIC admits the allegations contained in paragraph 1 of the Petition to the extent that U. S. Trademark Application Serial No. 78/966,660 (“App. No. 78/966,660”) was denied registration because of a likelihood of confusion with the Registration, and otherwise denies the allegations therein.

2. GNIC is without sufficient information to form a belief as to the truth of Stiles’

alleged date of first use of ISLAND NUTRITION in commerce and of Stiles' alleged continued use of the words in connection with dietary supplements, and therefore denies the allegations relating thereto. GNIC denies the allegations contained in paragraph 2 of the Petition relating to the prosecution history of U.S. Trademark Application Serial No. 75/926,825 on the basis that the prosecution history speaks for itself, and there is no need for Stiles' self-serving interpretations of the file history. GNIC denies the allegation that Stiles' trademark application is evidence of use of ISLAND NUTRITION prior to the filing of GNIC's application for ISLAND BERRIES or GNIC's use of ISLAND BERRIES.

3. GNIC is without sufficient knowledge of Stiles' ownership or use of ISLAND NUTRITION and therefore denies the allegations relating thereto. Upon information and belief, GNIC admits that App. No. 78/966,660 was for ISLAND NUTRITION, wherein the term "NUTRITION" was disclaimed, in standard characters, for "vitamins, mineral supplements, nutritional supplements, and herbal supplements containing amino acids, enzymes, phytonutrients, marine extracts, and herbal extracts" in International Class 5. GNIC admits that its Reg. No. 2,712,051 is for ISLAND BERRIES, wherein the term "BERRIES" was disclaimed, for "dietary supplement smoothie" in International Class 5. GNIC asserts that the remainder of the allegations contained in paragraph 3 of the Petition call for legal conclusions, and thus denies those allegations.

4. GNIC denies that Stiles is entitled to any of the relief requested in its Prayer.

AFFIRMATIVE DEFENSES

GNIC asserts the following affirmative defenses. GNIC does not intend hereby to assume the burden of proof with respect to those matters which, pursuant to law, Stiles bears the burden of proof.

FIRST DEFENSE

Upon information and belief, Stiles' Petition, in whole or in part, fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Upon information and belief, Stiles lacks standing to bring and maintain one or more of the claims asserted in its Petition.

THIRD DEFENSE

Upon information and belief, Stiles' claims are barred or otherwise affected by laches.

FOURTH DEFENSE

Upon information and belief, Stiles' claims are barred by Stiles' acquiescence.

FIFTH DEFENSE

Upon information and belief, Stiles' claims are barred by the doctrine of estoppel.

SIXTH DEFENSE

Upon information and belief, Stiles' claims are barred due to its unclean hands.

SEVENTH DEFENSE

Upon information and belief, Stiles' claims are barred or otherwise affected by the doctrine of res judicata.

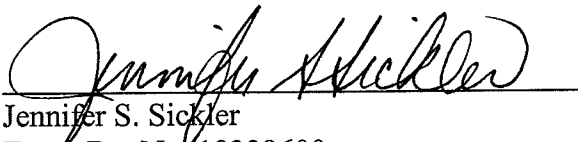
PRAYER FOR RELIEF

GNIC prays that the Board:

1. Dismiss all claims in Stiles' Petition with prejudice and order that Stiles take nothing by way of this action;
2. Enter judgment in favor of GNIC declaring that GNIC's U.S. Trademark Registration No. 2,712,051 is valid and enforceable; and

3. Enter judgment in favor of GNIC for such other and further relief that this Board deems just, equitable and proper.

Respectfully submitted,



Jennifer S. Sickler
Texas Bar No. 18339600

Jason P. Sander
Texas Bar No. 24046792

GARDERE WYNNE SEWELL LLP

1000 Louisiana, Suite 3400

Houston, Texas 77002-5007

713.276.5382 (Telephone)

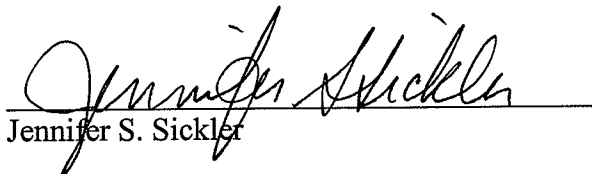
713.276.6382 (Fax)

**ATTORNEYS FOR REGISTRANT
GENERAL NUTRITION INVESTMENT
COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Registrant General Nutrition Investment Company's Answer To Petition For Cancellation was served by certified mail/RRR on this 26th day of November, 2007 upon:

D. STILES
5901 Warner Ave. #115
Huntington Beach, California 92649-4659
702.430.8414 (Telephone)



Jennifer S. Sickler