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

Proceeding	92049968
Party	Defendant A.R. Neuburger, Inc., dba Guardian Products
Correspondence Address	A.R. Neuburger, Inc. dba Guardian Products P.O. Box 150357 San Rafael, CA 94915 UNITED STATES
Submission	Answer
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Signature	/Marc M. Gorelnik/
Date	10/31/2008
Attachments	Answer to Petition for Cancellation.pdf (4 pages)(103281 bytes)

CERTIFICATE OF FILING

Electronically filed with the Trademark Trial and Appeal Board on October 31, 2008.

By: 
Billie Roney

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

In re: *Registration No. 3,092,522*
Mark: **BRA SAVER**
Registered: May 16, 2006

Kieu Phan, an individual,

Petitioner,

v.

A.R. Neuburger, Inc. d/b/a Guardian Products,

Registrant.

Cancellation No. 92049968

**ANSWER TO PETITION FOR
CANCELLATION**

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Madam:

A.R. Neuburger, Inc. d/b/a Guardian Products (“Registrant”), a California corporation having a business address of P.O. Box 150357, San Rafael, CA 94915, by and through its undersigned counsel, hereby responds to the Petition for Cancellation:

1. Registrant admits that it filed a use-based application on November 17, 2004 to register the BRA SAVER mark but otherwise denies the allegations of Paragraph 1 of the Petition.

2. Registrant admits that the BRA SAVER application claimed a first use date of at least as early as March 4, 2004, but otherwise denies the allegations of Paragraph 2 of the Petition.

3. Registrant lacks sufficient information or belief to form an opinion regarding the allegations of Paragraph 3 of the Petition and on that basis denies them.

4. Registrant lacks sufficient information or belief to form an opinion regarding the allegations of Paragraph 4 of the Petition and on that basis denies them.

5. To the extent that Paragraph 5 of the Petition contains factual allegations requiring a response, Registrant denies such allegations.

6. To the extent that Paragraph 6 of the Petition contains factual allegations requiring a response, Registrant denies such allegations.

7. To the extent that Paragraph 7 of the Petition contains factual allegations requiring a response, Registrant denies such allegations.

8. To the extent that Paragraph 8 of the Petition contains factual allegations requiring a response, Registrant denies such allegations.

FIRST AFFIRMATIVE DEFENSE

Opposer's request for relief is barred by the equitable doctrines and affirmative defenses of waiver, estoppel, laches and unclean hands.

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SECOND AFFIRMATIVE DEFENSE

Opposer's request for relief is barred because it lacks cognizable trademark rights in the mark BRA SAVER.

WHEREFORE, Registrant requests that the Petition for Cancellation be denied with prejudice and on the merits.

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

Dated: October 31, 2008

By: _____



Marc M. Gorelnik
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PROOF OF SERVICE

On October 31, 2008, I served the foregoing **ANSWER TO PETITION FOR CANCELLATION** on the parties in said action by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

Dwayne K. Goetzel
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Attorneys for Petitioner

Dated: October 31, 2008


Billie Raney

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