

ESTTA Tracking number: **ESTTA258568**

Filing date: **01/05/2009**

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

Proceeding	92050388
Party	Defendant Adena Surabian
Correspondence Address	Adena Surabian 295 Knoll Road Simi Valley, CA 93065 UNITED STATES
Submission	Answer
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Date	01/05/2009
Attachments	Answer to Petition for Cancellation.pdf (6 pages)(49928 bytes)

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

NATURE’S ONE, INC,

Petitioner,

v.

SURABIAN, ADENA,

Defendant.

Petition: 92050388
Registration: 3118082
Mark: NATURE’S BABY
Registration date: July 18, 2006

ANSWER TO PETITION FOR CANCELLATION

Commissioner for Trademarks
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3514

Defendant Adena Surabian, (“Defendant”) hereby answers and asserts affirmative defenses to the Petition for Cancellation filed by Nature’s One, Inc. (“Petitioner”).

In response to the numbered paragraphs in the Petition, Defendant answers as follows:

1. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 1 of the Petition and, therefore, denies the same.

2. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 2 of the Petition and, therefore, denies the same.

3. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 3 of the Petition and, therefore, denies the same.

4. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 4 of the Petition and, therefore, denies the same.

5. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 5 of the Petition and, therefore, denies the same.

6. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 6 of the Petition and, therefore, denies the same.

7. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 7 of the Petition and, therefore, denies the same.

8. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 8 of the Petition and, therefore, denies the same.

9. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 9 of the Petition and, therefore, denies the same.

10. Defendant admits the allegations in Paragraph 10 of the Petition.

11. Defendant admits the allegations in Paragraph 11 of the Petition.

12. Defendant admits the allegations in Paragraph 12 of the Petition.

13. Defendant admits the allegations in Paragraph 13 of the Petition.

14. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 14 of the Petition and, therefore, denies the same.

15. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 15 of the Petition and, therefore, denies the same.

16. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 16 of the Petition and, therefore, denies the same.

17. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 17 of the Petition and, therefore, denies the same.

18. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 18 of the Petition and, therefore, denies the same.

19. Defendant is without sufficient knowledge to admit or deny the allegations in Paragraph 19 of the Petition and, therefore, denies the same.

FIRST AFFIRMATIVE DEFENSE (FAILURE TO STATE A CLAIM)

All claims for relief fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE (LIMITED RIGHTS)

Nature's One NATURE'S ONE registration claimed no right to use the words "Nature" or "One" apart from the mark and other than for Class 5 and, more specifically, "baby food." Thus, any rights in the mark do not extend to the mere use of either word or for use of the words aside from Class 5.

Nature's One BABY'S ONLY ORGANIC registration disclaimed the exclusive right to use "Baby's" and "Organic" apart from the mark. Thus, any rights in the mark do not extend to the mere use of either word.

THIRD AFFIRMATIVE DEFENSE (NO LIKELIHOOD OF CONFUSION)

There is no likelihood of confusion between Nature's One's BABY'S ONLY ORGANIC or NATURE'S ONE on the one hand and NATURE'S BABY on the other.

The words are different and differ in the visual impression, meaning and the way the marks sound.

The parties' respective goods with which the marks are associated, namely (a) NATURE'S ONE baby food; and (b) NATURE'S BABY'S shampoos, conditioners, soaps for body care, laundry detergent, non-medicated diaper rash ointments and massage oils, all for use with babies and children, and baby product dishwashing soap, are different.

Since Nature's Baby adopted the mark NATURE'S BABY, there have been no instances of actual confusion in the market between the parties' marks or goods.

The representations of the respective marks speak for themselves.



FOURTH AFFIRMATIVE DEFENSE (LACK OF STANDING)

Petitioner has not and will not be damaged by the registration of NATURE'S BABY and therefore lacks standing to petition to cancel the registration.

FIFTH AFFIRMATIVE DEFENSE (LACHES, ESTOPPEL, WAIVER)

Petitioner has acquiesced in registrant's adoption, registration, and use of the mark that is the subject of the petition to cancel.

WHEREFORE, Defendant prays that this Petition be dismissed and that Defendant be granted her attorney's fees and costs in defending against the Petition.

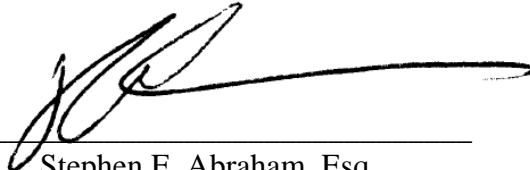
DATED: January 5, 2009

Respectfully submitted,

FINK AND ABRAHAM LLP

Attorneys for Defendant Adena Surabian

By: _____



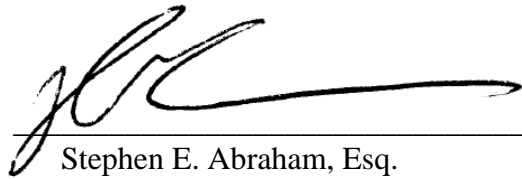
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer to Notice of Petition has been served upon counsel for Nature's One, Inc., on January 5, 2009, in the manner indicated.

Via First Class U.S. Mail

Carol Stovsky
STANDLEY LAW GROUP LLP
495 Metro Place South, Suite 210
Dublin, Ohio 43017-5319



Stephen E. Abraham, Esq.
Attorney for Defendant Adena Surabian