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

Proceeding	92052052
Party	Defendant Colgate-Palmolive Company
Correspondence Address	Colgate-Palmolive Company 300 Park Avenue New York, NY 10022 UNITED STATES
Submission	Answer and Counterclaim
Filer's Name	Matthew D. Stein
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Signature	/Matthew D. Stein/
Date	03/22/2010
Attachments	PLD - Answer and Counterclaim to Petition for Cancellation (W1733545).PDF (5 pages)(13418 bytes)

Registration Subject to the filing

Registration No	3652871	Registration date	07/07/2009
Registrant	FRENCH TRANSIT, LTD 398 BEACH RD. BURLINGAME, CA 94010 UNITED STATES		

Goods/Services Subject to the filing

Class 003. First Use: 2006/11/01 First Use In Commerce: 2006/11/01 All goods and services in the class are requested, namely: BODY AND UNDERARM DEODORANT

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

Cancellation No. 92052052
Registration No. 2345572

French Transit, Ltd.	)	
	)	
Petitioner,	)	
	)	**ANSWER AND COUNTERCLAIM OF RESPONDENT**
	)	**COLGATE –PALMOLIVE COMPANY**
vs.	)	
	)	
Colgate-Palmolive Company	)	
	)	
Respondent.	)	

Without waiving any right or remedy due to any insufficiency in the Petition for Cancellation filed by French Transit, Ltd. (the "Petition"), Colgate-Palmolive Company, Respondent in the above-captioned cancellation proceeding ("Respondent" or "Colgate"), hereby answers the Petition as follows:

Colgate-Palmolive Company is without knowledge or information sufficient to form a belief as to whether French Transit, Ltd. ("Petitioner" or "French Transit") is a California corporation located and doing business at 398 Road, Burlingame, California. Respondent denies that Petitioner will be damaged by Registration No. 2345572 owned by Respondent, and denies that said Registration should be cancelled.

1. Respondent denies the allegations contained in paragraph 1 of the Petition.

2. Respondent denies that the CRYSTAL mark is symbolic of extensive good will and consumer recognition built up by Petitioner through substantial time and effort in advertising

and promotion. Respondent is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2 of the Petition.

3. Respondent admits the allegations contained in paragraph 3 of the Petition.

4. Respondent denies the allegations contained in paragraph 4 of the Petition.

5. Respondent states that it claimed first use of CRYSTAL CLEAN at least as early as December 16, 1991. Respondent admits the remaining allegations contained in paragraph 5 of the Petition.

6. Respondent denies the allegations contained in paragraph 6 of the Petition.

7. Respondent admits that it filed Section 8 and Section 15 affidavits which speak for themselves. Respondent denies the remaining allegations contained in paragraph 7 of the Petition.

8. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Petition.

ADDITIONAL DEFENSES

9. Supplemental Trademark Registration No. 3652871 for CRYSTAL BODY DEODORANT was improperly issued by the U.S. Patent and Trademark Office in that said alleged trademark consists of a generic classification of a type of body deodorant and cannot function to identify Petitioner's goods.

10. The Petition is barred because the terms "CRYSTAL," "CRYSTAL BODY DEODORANT" and "LE CRYSTAL NATUREL" are generic or are merely descriptive of Petitioner's goods, and are not distinctive of Petitioner's goods in commerce.

11. The Petition is barred due to Petitioner's lack of standing.

12. The Petition is barred under the equitable doctrines of laches and acquiescence.

Wherefore, Respondent respectfully requests that the Petition be dismissed with prejudice and that it be awarded its costs and any additional relief as provided for by law and the rules of practice in trademark cases.

COUNTERCLAIM

Colgate—Respondent and Counterclaim Petitioner—hereby counterclaims against Petitioner as follows:

1. Colgate is a Delaware corporation with its principal place of business in New York, New York.

2. On April 1, 2009, Federal Trademark Registration No. 3652871, for the mark CRYSTAL BODY DEODORANT, was issued on the Supplemental Register to French Transit in International Class 003 for body and underarm deodorant.

3. The term CRYSTAL BODY DEODORANT is a common, generic classification for body deodorants produced from mineral crystal substances, and cannot, therefore, qualify as a trademark.

4. The registration of CRYSTAL BODY DEODORANT, Registration No. 3652871, does not function to identify French Transit's goods and to distinguish such goods from goods offered by others.

5. On information and belief, French Transit has long known of use of the term "CRYSTAL" as a generic word that describes an entire category of deodorants.

6. Colgate believes that it is or will be damaged by Registration No. 3652871 and hereby petitions to cancel the same.

Date: March 22, 2010

By: /s/Jeffrey M. White

Jeffrey M. White, Esq.

Matthew D. Stein
Respondent's Attorneys

Pierce Atwood LLP
One Monument Square
Portland, ME 04101
Tel: (207) 791-1100

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer of Respondent Colgate-Palmolive Company has been served on Katharine Livingston, by mailing said copy on the date shown below, via First Class Mail, postage prepaid to:

Katharine Livingston
Law Offices of Katharine Livingston
250 Lafayette Circle, Suite 300-A
Lafayette, CA 94549

/s/ Matthew D. Stein
(Signature)

Pierce Atwood LLP
One Monument Square
Portland, ME 04101
Tel: (207) 791-1100

March 22, 2010