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

Proceeding	92057973
Party	Defendant Stellar Technology Company
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Date	12/09/2013
Attachments	stellar answer.PDF(129207 bytes )

**CERTIFICATE OF MAILING VIA ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on December 9, 2013.

/s/ Andrew R. Gilfoil

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

U.S. Registration Nos. 4,268,645; 4,268,646; and 4,276,144

NATURAL CHEMISTRY L.P.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92057973
	)	
STELLAR TECHNOLOGY COMPANY,	)	
	)	
	)	
Registrant.	)	

**ANSWER TO PETITION FOR CANCELLATION**

Registrant, Stellar Technology Company (“Registrant” or “Stellar”), by and through its undersigned counsel, hereby answers the Petition for Cancellation of Petitioner, Natural Chemistry L.P. (“Petitioner”) as follows.

1. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1, and accordingly denies the same.
2. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2, and accordingly denies the same.
3. Registrant admits that each of the Cited Registrations, as that term is defined in the Petition for Cancellation, identify a date of first use of September 29, 2010

and a date of first use in U.S. Commerce of February 11, 2011. Except as so expressly admitted, Registrant denies the allegations of Paragraph 3.

4. Admitted.

5. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5, and accordingly denies the same.

6. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6, and accordingly denies the same.

7. Denied.

8. Denied.

#### **AFFIRMATIVE DEFENSES**

**First Affirmative Defense:** For further answer, and as an Affirmative Defense, Registrant states that Petitioner's Petition for Cancellation fails to state a claim upon which relief may be granted.

**Second Affirmative Defense:** For further answer, and as an Affirmative Defense, Registrant states that Petitioner's claims are barred by laches, estoppel, waiver, unclean hands and/or acquiescence.

**Third Affirmative Defense:** For further answer, and as an Affirmative Defense, Registrant states that Petitioner lacks standing for purposes of its Petition for Cancellation.

**Fourth Affirmative Defense:** For further answer, and as an Affirmative Defense, Registrant states that Petitioner's alleged use of its marks, as alleged in Paragraphs 1 and 5 through 8 of its Petition, does not create priority of use over

Registrant's adoption and use of its trademarks for the stated goods in International Class 1.

**Fifth Affirmative Defense:** For further answer, and as an Affirmative Defense, Registrant states that Petitioner is not being damaged by registration of the marks that are the subject of this cancellation proceeding.

**Sixth Affirmative Defense:** For further answer, and as an Affirmative Defense, to the extent that Petitioner has any rights in the pleaded application or common law uses of the term POOL PERFECT, which Registrant does not admit, pervasive third-party use of the term "PERFECT" on the same or similar goods precludes any confusion with the same and the mark appearing in Registrant's U.S. Registration Nos. 4,268,645; 4,268,646; and 4,276,144 for use on their stated goods.

**Seventh Affirmative Defense:** For further answer, and as an Affirmative Defense, Registrant states that there is no likelihood of confusion between Petitioner's marks and the marks shown in the subject registrations because Petitioner's rights, if any, are extremely weak and limited as Petitioner has admitted in the prosecution of its pleaded application, and that the only similar aspect of the parties' respective marks, the term PERFECT, is not unique.

**WHEREFORE,** Registrant Stellar Technology Company prays that the petition for cancellation to cancel U.S. Registration Nos. 4,268,645; 4,268,646; and 4,276,144 be dismissed in its entirety with prejudice and that judgment be entered in Registrant's favor and against Petitioner herein.

DATED: December 9, 2013.

STELLAR TECHNOLOGY COMPANY

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