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

Proceeding	92058136
Party	Defendant Roca Labs, Inc.
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Submission	Answer
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Date	02/22/2014
Attachments	roca answer to cancellation.pdf(239737 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
CANCELLATION NO.: 92058136**

CENTURY SCIENCES, LLC,
Petitioner,

v.

ROCA LABS, INC.,

Registrant.

_____ /

REGISTRANT, ROCA LABS, INC.'S ANSWER AND AFFIRMATIVE DEFENSES

Registrant, ROCA LABS, INC., by and through undersigned counsel, files this Answer and Affirmative Defenses, and states as follows:

Petitioner, CENTURY SCIENCES, LLC., has filed to cancel six (6) of Registrant's trademarks. They are US Reg. No: 4138638, for GASTRIC BYPASS ALTERNATIVE; US Reg. No: 4298297, for GASTRIC BYPASS NO SURGERY; US Reg. No: 4374938, for GASTRIC BYPASS SURGERY ALTERNATIVE; US Reg. No: 4360182, for GASTRIC BYPASS EFFECT; US Reg. No: 4363486, for GASTRIC BYPASS RESULTS; and US Reg. No: 4138639, for NATURAL GASTRIC BYPASS.

A. GASTRIC BYPASS ALTERNATIVE..

1. Registrant admits the allegations contained in paragraph 1 of the Petition to Cancel
2. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 2 of the Petition to Cancel, and therefore denies same.
3. Registrant is without knowledge sufficient to form a belief as to the allegations contained

in paragraph 3 of the Petition to Cancel, and therefore denies same.

4. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 4 of the Petition to Cancel, and therefore denies same.

5. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 5 of the Petition to Cancel, and therefore denies same.

6. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 6 of the Petition to Cancel, and therefore denies same.

7. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 7 of the Petition to Cancel, and therefore denies same.

8. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 8 of the Petition to Cancel, and therefore denies same.

9. Registrant denies the allegations contained in paragraph 9 of the Petition to Cancel, and demands strict proof thereof.

10. Registrant admits the allegations contained in paragraph 10 of the Petition to Cancel.

11. Registrant admits the allegations contained in paragraph 11 of the Petition to Cancel.

12. Registrant admits the allegations contained in paragraph 12 of the Petition to Cancel.

13. Registrant denies the allegations contained in paragraph 13 of the Petition to Cancel, and demands strict proof thereof.

14. Registrant admits the allegations contained in paragraph 14 of the Petition to Cancel.

15. Registrant admits the allegations contained in paragraph 15 of the Petition to Cancel.
16. Registrant admits the allegations contained in paragraph 16 of the Petition to Cancel.
17. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 17 of the Petition to Cancel, and therefore denies same.
18. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 18 of the Petition to Cancel, and therefore denies same.
19. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 19 of the Petition to Cancel, and therefore denies same.
20. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 20 of the Petition to Cancel, and therefore denies same.
21. Registrant admits the allegations contained in paragraph 21 of the Petition to Cancel.
22. Registrant denies the allegations contained in paragraph 22 of the Petition to Cancel, and demands strict proof thereof.
23. Registrant denies the allegations contained in paragraph 23 of the Petition to Cancel, and demands strict proof thereof.
24. Registrant admits the allegations contained in paragraph 24 of the Petition to Cancel.
25. Registrant denies the allegations contained in paragraph 25 of the Petition to Cancel, and demands strict proof thereof.
26. Registrant denies the allegations contained in paragraph 26 of the Petition to Cancel, and

demands strict proof thereof.

27. Registrant denies the allegations contained in paragraph 27 of the Petition to Cancel, and demands strict proof thereof.

28. Registrant denies the allegations contained in paragraph 28 of the Petition to Cancel, and demands strict proof thereof.

29. Registrant denies the allegations contained in paragraph 29 of the Petition to Cancel, and demands strict proof thereof.

30. Registrant denies the allegations contained in paragraph 30 of the Petition to Cancel, and demands strict proof thereof.

31. Registrant denies the allegations contained in paragraph 31 of the Petition to Cancel, and demands strict proof thereof.

32. Registrant denies the allegations contained in paragraph 32 of the Petition to Cancel, and demands strict proof thereof.

33. Registrant denies the allegations contained in paragraph 33 of the Petition to Cancel, and demands strict proof thereof.

34. Registrant denies the allegations contained in paragraph 34 of the Petition to Cancel, and demands strict proof thereof.

35. Registrant denies the allegations contained in paragraph 35 of the Petition to Cancel, and demands strict proof thereof.

B. GASTRIC BYPASS SURGERY ALTERNATIVE.

1. Registrant admits the allegations contained in paragraph 1 of the Petition to Cancel
2. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 2 of the Petition to Cancel, and therefore denies same.
3. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 3 of the Petition to Cancel, and therefore denies same.
4. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 4 of the Petition to Cancel, and therefore denies same.
5. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 5 of the Petition to Cancel, and therefore denies same.
6. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 6 of the Petition to Cancel, and therefore denies same.
7. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 7 of the Petition to Cancel, and therefore denies same.
8. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 8 of the Petition to Cancel, and therefore denies same.
9. Registrant denies the allegations contained in paragraph 9 of the Petition to Cancel, and demands strict proof thereof.
10. Registrant admits the allegations contained in paragraph 10 of the Petition to Cancel.

11. Registrant admits the allegations contained in paragraph 11 of the Petition to Cancel.
12. Registrant admits the allegations contained in paragraph 12 of the Petition to Cancel.
13. Registrant denies the allegations contained in paragraph 13 of the Petition to Cancel, and demands strict proof thereof.
14. Registrant admits the allegations contained in paragraph 14 of the Petition to Cancel.
15. Registrant admits the allegations contained in paragraph 15 of the Petition to Cancel.
16. Registrant admits the allegations contained in paragraph 16 of the Petition to Cancel.
17. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 17 of the Petition to Cancel, and therefore denies same.
18. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 18 of the Petition to Cancel, and therefore denies same.
19. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 19 of the Petition to Cancel, and therefore denies same.
20. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 20 of the Petition to Cancel, and therefore denies same.
21. Registrant admits the allegations contained in paragraph 21 of the Petition to Cancel.
22. Registrant denies the allegations contained in paragraph 22 of the Petition to Cancel, and demands strict proof thereof.
23. Registrant denies the allegations contained in paragraph 23 of the Petition to Cancel, and

demands strict proof thereof.

24. Registrant admits the allegations contained in paragraph 24 of the Petition to Cancel.

25. Registrant denies the allegations contained in paragraph 25 of the Petition to Cancel, and demands strict proof thereof.

26. Registrant denies the allegations contained in paragraph 26 of the Petition to Cancel, and demands strict proof thereof.

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31. Registrant denies the allegations contained in paragraph 31 of the Petition to Cancel, and demands strict proof thereof.

32. Registrant denies the allegations contained in paragraph 32 of the Petition to Cancel, and demands strict proof thereof.

33. Registrant denies the allegations contained in paragraph 33 of the Petition to Cancel, and demands strict proof thereof.

34. Registrant denies the allegations contained in paragraph 34 of the Petition to Cancel, and demands strict proof thereof.

35. Registrant denies the allegations contained in paragraph 35 of the Petition to Cancel, and demands strict proof thereof.

C. GASTRIC BYPASS NO SURGERY.

1. Registrant admits the allegations contained in paragraph 1 of the Petition to Cancel

2. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 2 of the Petition to Cancel, and therefore denies same.

3. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 3 of the Petition to Cancel, and therefore denies same.

4. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 4 of the Petition to Cancel, and therefore denies same.

5. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 5 of the Petition to Cancel, and therefore denies same.

6. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 6 of the Petition to Cancel, and therefore denies same.

7. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 7 of the Petition to Cancel, and therefore denies same.

8. Registrant denies the allegations contained in paragraph 8 of the Petition to Cancel, and demands strict proof thereof.

9. Registrant admits the allegations contained in paragraph 9 of the Petition to Cancel.
10. Registrant admits the allegations contained in paragraph 10 of the Petition to Cancel.
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12. Registrant denies the allegations contained in paragraph 12 of the Petition to Cancel, and demands strict proof thereof.
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18. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 18 of the Petition to Cancel, and therefore denies same.
19. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 19 of the Petition to Cancel, and therefore denies same.
20. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 20 of the Petition to Cancel, and therefore denies same.
21. Registrant denies the allegations contained in paragraph 21 of the Petition to Cancel, and demands strict proof thereof.

22. Registrant denies the allegations contained in paragraph 22 of the Petition to Cancel, and demands strict proof thereof.
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demands strict proof thereof.

33. Registrant denies the allegations contained in paragraph 33 of the Petition to Cancel, and demands strict proof thereof.

34. Registrant denies the allegations contained in paragraph 34 of the Petition to Cancel, and demands strict proof thereof.

35. Registrant denies the allegations contained in paragraph 35 of the Petition to Cancel, and demands strict proof thereof.

36. Registrant denies the allegations contained in paragraph 36 of the Petition to Cancel, and demands strict proof thereof.

37. Registrant denies the allegations contained in paragraph 37 of the Petition to Cancel, and demands strict proof thereof.

38. Registrant denies the allegations contained in paragraph 38 of the Petition to Cancel, and demands strict proof thereof.

D. NATURAL GASTRIC BYPASS.

1. Registrant admits the allegations contained in paragraph 1 of the Petition to Cancel

2. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 2 of the Petition to Cancel, and therefore denies same.

3. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 3 of the Petition to Cancel, and therefore denies same.

4. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 4 of the Petition to Cancel, and therefore denies same.
5. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 5 of the Petition to Cancel, and therefore denies same.
6. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 6 of the Petition to Cancel, and therefore denies same.
7. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 7 of the Petition to Cancel, and therefore denies same.
8. Registrant denies the allegations contained in paragraph 8 of the Petition to Cancel, and demands strict proof thereof.
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10. Registrant admits the allegations contained in paragraph 10 of the Petition to Cancel.
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16. Registrant admits the allegations contained in paragraph 16 of the Petition to Cancel.
17. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 17 of the Petition to Cancel, and therefore denies same.
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19. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 19 of the Petition to Cancel, and therefore denies same.
20. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 20 of the Petition to Cancel, and therefore denies same.
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35. Registrant denies the allegations contained in paragraph 35 of the Petition to Cancel, and demands strict proof thereof.

36. Registrant denies the allegations contained in paragraph 36 of the Petition to Cancel, and demands strict proof thereof.

37. Registrant denies the allegations contained in paragraph 37 of the Petition to Cancel, and demands strict proof thereof.

38. Registrant denies the allegations contained in paragraph 38 of the Petition to Cancel, and demands strict proof thereof.

39. Registrant denies the allegations contained in paragraph 39 of the Petition to Cancel, and demands strict proof thereof.

40. Registrant denies the allegations contained in paragraph 40 of the Petition to Cancel, and demands strict proof thereof.

E. GASTRIC BYPASS EFFECT.

1. Registrant admits the allegations contained in paragraph 1 of the Petition to Cancel

2. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 2 of the Petition to Cancel, and therefore denies same.

3. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 3 of the Petition to Cancel, and therefore denies same.

4. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 4 of the Petition to Cancel, and therefore denies same.

5. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 5 of the Petition to Cancel, and therefore denies same.

6. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 6 of the Petition to Cancel, and therefore denies same.

7. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 7 of the Petition to Cancel, and therefore denies same.
8. Registrant denies the allegations contained in paragraph 8 of the Petition to Cancel, and demands strict proof thereof.
9. Registrant denies the allegations contained in paragraph 9 of the Petition to Cancel, and demands strict proof thereof.
10. Registrant admits the allegations contained in paragraph 10 of the Petition to Cancel.
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21. Registrant denies the allegations contained in paragraph 21 of the Petition to Cancel, and demands strict proof thereof.

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35. Registrant denies the allegations contained in paragraph 35 of the Petition to Cancel, and demands strict proof thereof.

36. Registrant denies the allegations contained in paragraph 36 of the Petition to Cancel, and demands strict proof thereof.

37. Registrant denies the allegations contained in paragraph 37 of the Petition to Cancel, and demands strict proof thereof.

38. Registrant denies the allegations contained in paragraph 38 of the Petition to Cancel, and demands strict proof thereof.

F. GASTRIC BYPASS RESULTS.

1. Registrant admits the allegations contained in paragraph 1 of the Petition to Cancel
2. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 2 of the Petition to Cancel, and therefore denies same.
3. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 3 of the Petition to Cancel, and therefore denies same.
4. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 4 of the Petition to Cancel, and therefore denies same.
5. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 5 of the Petition to Cancel, and therefore denies same.
6. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 6 of the Petition to Cancel, and therefore denies same.
7. Registrant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 7 of the Petition to Cancel, and therefore denies same.
8. Registrant denies the allegations contained in paragraph 8 of the Petition to Cancel, and demands strict proof thereof.
9. Registrant denies the allegations contained in paragraph 9 of the Petition to Cancel, and demands strict proof thereof.
10. Registrant admits the allegations contained in paragraph 10 of the Petition to Cancel.

11. Registrant admits the allegations contained in paragraph 11 of the Petition to Cancel.
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33. Registrant denies the allegations contained in paragraph 33 of the Petition to Cancel, and

demands strict proof thereof.

34. Registrant denies the allegations contained in paragraph 34 of the Petition to Cancel, and demands strict proof thereof.

35. Registrant denies the allegations contained in paragraph 35 of the Petition to Cancel, and demands strict proof thereof.

36. Registrant denies the allegations contained in paragraph 36 of the Petition to Cancel, and demands strict proof thereof.

37. Registrant denies the allegations contained in paragraph 37 of the Petition to Cancel, and demands strict proof thereof.

38. Registrant denies the allegations contained in paragraph 38 of the Petition to Cancel, and demands strict proof thereof.

AFFIRMATIVE DEFENSES

1. Petitioner has unclean hands in that they are seeking to cancel Petitioner's trademarks in an effort to disguise their acts of infringement.

2. Registrant's trademarks have acquired secondary meaning in the marketplace.

3. Registrant's trademarks are distinctive.

4. Petitioner fails to state a claim upon which relief may be granted, and its claims are subject to a Motion for Judgment on the Pleadings.

5. Registrant's trademarks are prima facie valid.

Dated: February 22, 2013

Respectfully submitted,

By: /s/ Louis R. Gigliotti/
Louis R. Gigliotti, Esq.
Florida Bar No.: 71935
1605 Dewey Street
Hollywood, FL 33020
Ph/Fax: (954) 922 8214
lgigliotti@bellsouth.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 22nd day of February, 2014 via US Mail, first class, to : Tracy Martinell Henry, Anderson Law Group, 13577 Feather Sound Dr., Suite 500, Clearwater, FL 33762, and via electronic mail to: thentry@floridalawpartners.com.

By: /s/Louis R. Gigliotti
Louis R. Gigliotti, Esq.