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

Proceeding	92058214
Party	Defendant Isomers Laboratories Inc.
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Submission	Answer
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Date	12/20/2013
Attachments	Isomers' Answer to Petition for Cancellation.pdf(55810 bytes )

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

Murad , Inc.,

Petitioner,

v.

Isomers Laboratories Inc.,

Registrant.

**Cancellation No. 92058214**

Registration No. 4046624

Mark: AGE DIFFUSER

**ANSWER TO PETITION FOR  
CANCELLATION**

**ANSWER TO PETITION FOR CANCELLATION**

Isomers Laboratories Inc. (“Registrant”) answers the Petition for Cancellation (“Petition”) filed by Murad, Inc. (“Petitioner”), as follows:

In response to the introductory paragraph of the Petition, Registrant states that Registration No. 4,046,624 (“Registration”) speaks for itself. With respect to the remaining allegations, Registrant lacks knowledge and information sufficient to form a belief as to their truth and therefore denies each and every remaining allegation.

1. In response to the allegations of Paragraph 1 of the Petition, Registrant lacks knowledge and information sufficient to form a belief as to the truth of the allegations and therefore denies each and every allegation contained therein.

2. In response to the allegations of Paragraph 2 of the Petition, Registrant lacks knowledge and information sufficient to form a belief as to the truth of the allegations and therefore denies each and every allegation contained therein.

3. In response to the allegations of Paragraph 3 of the Petition, Registrant lacks knowledge and information sufficient to form a belief as to the truth of the allegations and therefore denies each and every allegation contained therein.

4. In response to the allegations of Paragraph 4 of the Petition, Registrant asserts that the records of the Trademark Office speak for themselves. Registrant lacks knowledge and

information sufficient to form a belief as to the truth of the remaining allegations and therefore denies each and every allegation contained therein.

5. In response to the allegations of Paragraph 5 of the Petition, Registrant asserts that the records of the Trademark Office speak for themselves. Registrant lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations and therefore denies each and every allegation contained therein.

6. In response to the allegations of Paragraph 6 of the Petition, Registrant lacks knowledge and information sufficient to form a belief as to the truth of the allegations and therefore denies each and every allegation contained therein.

7. In response to the allegations of Paragraph 7 of the Petition, Registrant denies that Petitioner is likely to be damaged by continuation of the Registration. Registrant lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations and therefore denies each and every allegation contained therein.

#### **AFFIRMATIVE DEFENSES**

In addition to the foregoing, and as separate and distinct affirmative defenses to Petitioner's claims, Respondent alleges as follows:

#### **FIRST AFFIRMATIVE DEFENSE**

Petitioner's Petition is barred because the Petitioner has failed to state facts upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Petitioner's Petition for Cancellation is barred by laches. Petitioner did not seek cancellation of the Respondent's registrations for more than two years.

#### **THIRD AFFIRMATIVE DEFENSE**

Petitioner's Petition must fail because Petitioner has no trademark rights in the phrase "Age-Diffusing Serum."

FOURTH AFFIRMATIVE DEFENSE

Petitioner's Petition for Cancellation is barred by acquiescence. Petitioner did not seek to cancel Respondent's registrations for such a long period of time that it amounts to a relinquishment of any claims by Petitioner to cancel it.

FURTHER AFFIRMATIVE DEFENSES

Respondent is without sufficient information to know at the present time whether additional affirmative defenses may be applicable to this action. Accordingly, Respondent expressly reserves the right to assert further affirmative defenses should it learn that any such defenses are available.

WHEREFORE, Registrant prays that this Petition for Cancellation be denied in its entirety and dismissed with prejudice, that Registrant be awarded its costs of suit and other and/or additional relief that the Board concludes will be just and proper, and that the Registration be maintained.

Dated: December 20, 2013

Respectfully submitted,

By: /D. W. Bivens/  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **ANSWER TO PETITION FOR CANCELLATION** is being sent via U.S. mail to Petitioner Murad, Inc.'s attorney of record as follows: Michael A. Painter, Esq. of Isaacman, Kaufman & Painter, A Professional Corporation, with offices at 10250 Constellation Boulevard, Suite 2900, Los Angeles, California 90067.

Dated: December 20, 2013

/Debbie Esparza/  
Debbie Esparza