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

Proceeding	92061508
Party	Defendant My Eternal Family Tree, LLC
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Submission	Answer
Filer's Name	Jonathan A. Menkes
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Date	07/27/2015
Attachments	2015-07-27 Answer to Petition for Cancellation and Affirmative Defenses - BURN.001N.pdf(260659 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ESTUDI MOLINE DISSENY, S.L., Petitioner, v. MY ETERNAL FAMILY TREE, LLC, Respondent.	Cancellation No. 92061508 Mark: Reg. No. 4,477,402

ANSWER TO PETITION FOR CANCELLATION AND AFFIRMATIVE DEFENSES

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

MY ETERNAL FAMILY TREE, LLC ("Registrant"), hereby submits this Answer to the Petition for Cancellation filed by ESTUDI MOLINE DISSENY, S.L. ("Petitioner") against Registrant's U.S. Registration No. 4,477,402 for the mark ("Registrant's Mark").

With reference to the numbered paragraphs, Registrant states:

1. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Petition for Cancellation and therefore, on that basis, denies these allegations.

2. Registrant admits that it is the owner of U.S. Trademark Registration No. 4,477,402 for Registrant's Mark for "Combination funerary urns and seed and plant food in a biodegradable casing" in International Class 20.

3. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Petition for Cancellation and therefore, on that basis, denies these allegations.

4. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Petition for Cancellation and therefore, on that basis, denies these allegations. Registrant further denies the allegations contained in Paragraph 4 of the Petition for Cancellation to the extent the allegations are mere legal conclusions and thus do not require an answer from Registrant.

5. Registrant denies the allegations contained in Paragraph 5 of the Petition for Cancellation to the extent the allegations are mere legal conclusions and thus do not require an answer from Registrant. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Petition for Cancellation and therefore, on that basis, denies these allegations.

6. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Petition for Cancellation and therefore, on that basis, denies these allegations. Registrant further denies the allegations

contained in Paragraph 6 of the Petition for Cancellation to the extent the allegations are mere legal conclusions and thus do not require an answer from Registrant.

7. Answering paragraph 7 of the Petition for Cancellation, Registrant admits that on November 20, 2014, the Examining Attorney for the United States Patent and Trademark Office refused registration of Application No. 86/180988 based on a purported likelihood of confusion with Registrant's Mark under Section 2(d) of the Lanham Act. Registrant otherwise denies the remaining allegations contained in Paragraph 7 of the Petition for Cancellation to the extent the allegations are mere legal conclusions and thus do not require an answer from Registrant.

8. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Petition for Cancellation and therefore, on that basis, denies these allegations. Registrant further denies the allegations contained in Paragraph 8 of the Petition for Cancellation to the extent the allegations are mere legal conclusions and thus do not require an answer from Registrant.

Unless specifically admitted herein, all allegations in the Petition for Cancellation are denied. Registrant further denies that Petitioner is entitled to any relief, including the relief requested in the Petition for Cancellation.

REGISTRANT'S AFFIRMATIVE DEFENSES

Registrant alleges the following affirmative defenses. There may be additional affirmative defenses to the claims alleged by Petitioner that are currently unknown to Registrant. Therefore, Registrant reserves the right to amend its Answer to allege any additional affirmative defenses currently unknown to Registrant, in the event that discovery of additional information indicates that they are appropriate.

First Affirmative Defense

Petitioner's Petition for Cancellation fails to state a claim upon which relief can be granted, as Petitioner has no valid basis for cancellation of Registrant's Mark,

Second Affirmative Defense

Petitioner should be denied any and all recovery under the doctrine of laches and undue delay.

CONCLUSION

WHEREFORE, Registrant prays that Petitioner's Petition for Cancellation be dismissed in its entirety.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 27, 2015

By: _____

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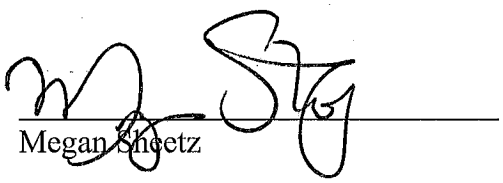
Attorneys for Respondent,
MY ETERNAL FAMILY TREE LLC

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **ANSWER TO PETITION FOR CANCELLATION AND AFFIRMATIVE DEFENSES** upon Petitioner's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on July 27, 2015, addressed as follows:

Julie B. Seyler, Esq.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NY 10017



Megan Sheetz

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