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

Proceeding	92071928
Party	Defendant Tabacalera Diamond Cigars, S.A.
Correspondence Address	TABACALERA DIAMOND CIGARS SA DE LA CLINICA PROVINCIONAL 1/2C AL ESTE, MANO DERECHA ESTELI, 00000 NICARAGUA no email provided no phone number provided
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Date	10/08/2019
Attachments	Answer - JB Cigars.pdf(164876 bytes)

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

REPUBLIC TECHNOLOGIES (NA), LLC,

Petitioner,

v.

Cancellation No. 92071928

TABACALERA DIAMOND CIGARS, S.A.,

Respondent.

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ANSWER AND AFFIRMATIVE DEFENSES

Tabacalera Diamond Cigars, S.A. (“TDC” or “Respondent”), by and through undersigned counsel, hereby files this Answer and Affirmative Defenses to Republic Technologies (NA), LLC, (“Petitioner”) Petition for Cancellation of the Federal Trademark Reg. No. 5,812,004 for “JB CIGARS” as follows:

1. Respondent lacks sufficient information to admit or deny the allegations of paragraph 1 of the Petition and therefore denies the same.
2. Respondent lacks sufficient information to admit or deny the allegations of paragraph 2 of the Petition and therefore denies the same.
3. Respondent lacks sufficient information to admit or deny the allegations of paragraph 3 of the Petition and therefore denies the same.
4. Respondent lacks sufficient information to admit or deny the allegations of paragraph 4 of the Petition and therefore denies the same.
5. Respondent lacks sufficient information to admit or deny the allegations of paragraph 5 of the Petition and therefore denies the same.

6. Respondent admits that it filed an application to register the mark “JB CIGARS” for use in connection with tobacco in IC 34, and that the same matured to registration on July 23, 2019. Respondent denies the remaining allegations of paragraph 6.

7. Respondent admits that its registered mark contains the letters “B” and “J”, and that it disclaimed the word “cigars.” Respondent denies the remaining allegations of paragraph 7.

8. Respondent denies the allegations of paragraph 8 of the Petition.

AFFIRMATIVE DEFENSES

1. First Affirmative Defense

Petitioner’s mark(s) is/are weak and are subject to extensive third-party use. For example, a review of United States Patent and Trademark Office (“USPTO”) shows that there are currently 1,408 live trademark applications and registrations containing the word “job”, including, but not limited to: Registration No. 5,803,242 for “JOB” for use in connection with goods services in classes 38 and 42; Registration No. 5,502,732 for “JOB-IQ” for use in connection with goods/services in classes 9 and 41; Registration No. 2,426,096 for “JOB” for use in connection with goods/services in class 35; Registration No. 5,131,130 for “10/4 JOB” for use in connection with goods/services in class 25; Registration No. 4,910,890 for “JOB” for use in connection with goods/services in classes 9 and 37; and Registration No. 3,491,321 for “JOBS” for use in connection with goods/services in classes 7, 9, and 37.

Although Petitioner’s “JOB” trademarks appear to be the only trademarks registered in class 34, the records of the USPTO show a number of examples of “JOB” trademarks co-existing within their respective classes with “JB” trademarks. Each of the above registered “JOB” trademarks coexists in its respective class with another “JB” trademark registration. For example, in class 38, Registration No. 4,664,250 for “JBS” is live and subsisting; in class 42 Registration

No. 4,894,287 for “JB” is live and subsisting; in classes 9 and 41 Registration No. 4,649,141 for “JB” is live and subsisting; in class 35 Registration No. 5,606,525 for “JB” is live and subsisting; in class 25 Registration No. 5,129,910 for “JB” is live and subsisting; in class 37 Registration No. 5,176,319 for “JB” is live and subsisting; and in class 7 Registration No. 4,101,607 for “JB” is live and subsisting.

2. Second Affirmative Defense

Respondent’s trademark refers to a living person, Jennifer Barreda, whose consent is of record. As such, the Petitioner’s mark(s) and Respondent’s registered mark have different meanings.

Dated: October 8, 2019

Respectfully submitted,

s/Gustavo Sardiña
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been served on: Antony J. McShane, Esq. Neal, Gerber & Eisenberg LLP, Two North LaSalle Street, Suite 1700 Chicago, Illinois 60602-3801 TEL: (312) 269-8000 Email: AMcShane@nge.com on this 8th day of October 2019.

s/Gustavo Sardiña
Gustavo Sardiña