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

Proceeding no.	92084363
Party	Defendant Bone Health Technologies, Inc.
Correspondence address	BONE HEALTH TECHNOLOGIES, INC. 101 MISSISSIPPI ST. SAN FRANCISCO, CA 94107 UNITED STATES Primary email: uspto@bonehealthtech.com (415) 926-8616
Submission	Answer
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Date	03/18/2024
Attachments	FINAL.Answer and Affirmative Defenses.031824.pdf(135255 bytes )

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

In re Registration No. 6149526  
Registered: September 8, 2020  
For: OSTEOBOOST

OSTEOREMEDIES, LLC,

Petitioner,

v.

BONE HEALTH TECHNOLOGIES, INC.,

Registrant.

Cancellation No. 92084363

**REGISTRANT BONE HEALTH  
TECHNOLOGIES, INC.'S ANSWER  
TO PETITION FOR CANCELLATION**

**ANSWER**

Registrant Bone Health Technologies, Inc. (“Registrant”) hereby answers the petition for cancellation of Petitioner Osteoremedies, LLC (“Petitioner”). The paragraphs below address the commensurately numbered paragraphs in the petition for cancellation. Registrant denies all allegations in the petition for cancellation not otherwise specifically admitted or denied.

In response to the first unnumbered paragraph of the petition for cancellation, Registrant denies that Petitioner is damaged by the continued registration of Registration No. 6149526, a document which speaks for itself. Registrant admits that it is a Delaware corporation but denies that its principal place of business is currently located at 101 Mississippi St., San Francisco, CA 94107. Rather, it is currently located at 370 Convention Way Suite 218, Redwood City CA 94063. Registrant lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations in the first unnumbered paragraph of the petition for cancellation, and therefore denies the same.

1. Registrant admits that Petitioner is the record owner of Registration No. 5069376, a document which speaks for itself. Registrant lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 1 of the petition for cancellation, and therefore denies the same.
2. Registrant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 2 of the petition for cancellation, and therefore denies the same.
3. Registrant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 3 of the petition for cancellation, and therefore denies the same.
4. Paragraph 4 of the petition for cancellation comprises legal conclusions that require no response. To the extent a response is required, Registrant denies the allegations in that paragraph.
5. Paragraph 5 of the petition for cancellation comprises legal conclusions that require no response. To the extent a response is required, Registrant denies the allegations in that paragraph.
6. Registrant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 6 of the petition for cancellation, and therefore denies the same.
7. Registrant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 7 of the petition for cancellation, and therefore denies the same.
8. Registrant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 8 of the petition for cancellation, and therefore denies the same.
9. Registrant denies the allegations in paragraph 9 of the petition for cancellation.
10. In response to paragraph 10 of the petition for cancellation, Registrant admits that it is the owner of Registration No. 6149526, a document which speaks for itself.
11. Registrant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 11 of the petition for cancellation, and therefore denies the same.

12. Registrant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 12 of the petition for cancellation, and therefore denies the same.
13. Registrant denies the allegations in paragraph 13 of the petition for cancellation.
14. Registrant lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 14 of the petition for cancellation, and therefore denies the same.
15. Registrant admits that it plans to continue selling the products listed in Registration No. 6149526 under the mark shown in Registration No. 6149526 in interstate commerce through its own website. Registrant otherwise denies the allegations in paragraph 15 of the petition for cancellation.
16. In response to paragraph 16 of the petition for cancellation, Registrant reasserts and incorporates by reference its above responses.
17. Registrant denies the allegations in paragraph 17 of the petition for cancellation.
18. Registrant denies the allegations in paragraph 18 of the petition for cancellation.
19. Registrant admits that it is not affiliated or connected with or endorsed or sponsored by Petitioner. Registrant otherwise denies the allegations in paragraph 19 of the petition for cancellation.
20. Registrant denies the allegations in paragraph 20 of the petition for cancellation.

#### **AFFIRMATIVE DEFENSES**

Registrant asserts the following affirmative defenses and reserves the right to assert additional defenses if and when appropriate, including without limitation based on information disclosed in discovery. In asserting these defenses, Registrant does not assume any burden that properly lies with Petitioner.

**First Affirmative Defense: Laches**

The petition for cancellation is barred by the doctrine of laches. Registrant applied for Registration No. 6149526 on December 9, 2019, over four years ago, and received it on September 8, 2020, over three years ago. Registrant has been using the mark shown therein in commerce since at least as early as May 5, 2020. Petitioner knew and should have known about Registration No. 6149526, the precursor application, and use of the mark shown therein. However, Petitioner did not take legal action until February 5, 2024, when it filed the petition for cancellation. Registrant will suffer prejudice if the petition for cancellation is sustained, having developed goodwill in the mark.

**Second Affirmative Defense: Acquiescence**

The petition for cancellation is barred by the doctrine of acquiescence. Registrant applied for Registration No. 6149526 on December 9, 2019, over four years ago, and received it on September 8, 2020, over three years ago. Registrant has been using the mark shown therein in commerce since at least as early as May 5, 2020. Petitioner knew about Registration No. 6149526, the precursor application, and use of the mark shown therein. However, Petitioner did not take legal action until February 5, 2024, when it filed the petition for cancellation. Petitioner has acquiesced to Registration No. 6149526 through its statements and inaction. Registrant will suffer prejudice if the petition for cancellation is sustained, having developed goodwill in the mark.

**PRAYER FOR RELIEF**

WHEREFORE, Registrant prays that the petition for cancellation be denied, that Registration No. 6149526 be preserved, and that judgment be entered in favor of Registrant.

Please direct all communications in this proceeding to the undersigned.

Dated: March 18, 2024

Respectfully submitted,

/Donald A. Thompson/  
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Counsel for Registrant,  
BONE HEALTH TECHNOLOGIES, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on March 18, 2024, I served the foregoing answer on Petitioner by email to its counsel of record at bhipdocket@bakerlaw.com, mtidman@bakerlaw.com, mmischler@bakerlaw.com, ahsu@bakerlaw.com, and visiondocket@bakerlaw.com.

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