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

Proceeding	92063037
Party	Defendant Thunder Beast LLC
Correspondence Address	THUNDER BEAST LLC 1110 CONGRESS ST NE WASHINGTON, DC 20002 UNITED STATES
Submission	Answer
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Date	03/02/2016
Attachments	Answer Thunder Beast.pdf(173802 bytes)

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

Monster Energy Company,

Petitioner,

v.

Thunder Beast, LLC,

Registrant.

Opposition No. 92063037

Mark: **THUNDER BEAST**

ANSWER TO PETITION FOR CANCELLATION

The following is the Answer of Thunder Beast, LLC ("Registrant"), owner of U.S. Trademark Registration No. 4772758 for the mark THUNDER BEAST (hereinafter "Registrant's Mark"), by and through Counsel, Bricolage Law, LLC, to the Petition for Cancellation filed on January 22, 2016 by Monster Energy Company (hereinafter "Petitioner"), and assigned Opposition No. 92063037.

1. Admitted.
2. Registrant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 2 of the Petition for Cancellation. Since Registrant can neither admit nor deny the paragraph as written, Registrant must deny.
3. Registrant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 3 of the Petition for Cancellation. Since Registrant can neither admit nor deny the paragraph as written, Registrant must deny.

4. Registrant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 4 of the Petition for Cancellation. Since Registrant can neither admit nor deny the paragraph as written, Registrant must deny.

5. Denied.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Denied, as Registrant is without knowledge or information sufficient to form a belief as to the validity of Petitioner's cited marks or registrations thereof; Petitioner's ownership of Petitioner's cited marks; or Petitioner's exclusive right to use Petitioner's cited marks on the goods set forth in Petitioner's registrations.

14. Denied, as Registrant is without knowledge or information sufficient to form a belief as to the validity of Petitioner's cited mark or registration thereof, Petitioner's ownership of Petitioner's cited mark, or Petitioner's exclusive right to use Petitioner's cited mark in commerce.

15. Registrant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in the first part of paragraph 15 of the Petition for Cancellation. Since Registrant can neither admit nor deny the paragraph as written, Registrant must deny. Registrant denies all claims and inferences in the second part of paragraph 15; namely, that Petitioner: (a) has achieved fame with respect to any of its cited marks such that the cited marks serve to distinguish Petitioner's goods from the goods of others; (b) has built up goodwill in its

cited marks; and (c) has established fame in any of its cited marks “long before” Registrant filed its application for THUNDER BEAST.

16. Registrant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in the paragraph 16 of the Petition for Cancellation. Since Registrant can neither admit nor deny the paragraph as written, Registrant must deny.

17. Denied.

18. Denied as to the date of first use of Registrant’s Mark. Admitted as to the date of first use in commerce of Registrant’s Mark. Registrant is without knowledge or information sufficient to form a belief as to the date of first use of Petitioner’s various marks, some of which are unregistered. Since Registrant can neither admit nor deny these claims, Registrant must deny.

19. Denied.

20. Denied.

21. Denied.

FURTHERMORE, Registrant sets forth the following affirmative defenses in support of its position:

22. Registrant’s Mark is unique and distinctive.

23. The wording in Registrant’s Mark and Petitioner’s marks are different.

24. Registrant’s Mark and Petitioner’s marks are different in appearance.

25. Registrant’s Mark and Petitioner’s marks are different in spelling and pronunciation.

26. Registrant’s Mark and Petitioner’s marks create different commercial impressions.

27. Petitioner’s marks each contain numerous words and/or features not present in Registrant’s Mark.

28. Registrant's Mark contains the word "THUNDER" not present in any of Petitioner's marks.

29. "BEAST" – the only commonality between Registrant's and Petitioner's marks - is a generic word.

30. "BEAST" is registered in numerous trademarks not owned by Petitioner.

31. "BEAST" is used in commerce by third parties as part of numerous trademarks not owned by Petitioner.

32. Registrant's Mark and Petitioner's marks are not likely to cause confusion, mistake or deception to purchasers as to the source of Petitioner's goods or services.


Registrant hereby appoints Eve J. Brown, a member of the Bars of the State of California and the Commonwealth of Massachusetts, at the firm of:

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to act as attorney in the instant proceeding, to prosecute said proceeding, to transact all business before the Trademark Trial and Appeal Board, to sign its name to all papers which are to be filed in connection therewith, and to receive all communications relating to the same.

WHEREFORE, Registrant respectfully requests that the Trademark Trial and Appeal Board deny the Petition and sustain the continued registration of U.S. Trademark Registration No. 4772758.

Dated this 2nd day of March, 2016.


By: 

Eve J. Brown, Esq.
Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of ANSWER TO PETITION FOR CANCELLATION has been served on the following by delivering said copy on March 2, 2016, via First Class Mail, postage prepaid, to counsel for Petitioner at the following address:

LYNDA ZADRA-SYMES
JONATHAN MENKES
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By: 

Eve J. Brown, Esq.