

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

STOKELY-VAN CAMP, INC.,

Opposer,

v.

AMAZON THUNDER INC.,

Applicant

Opposition No. 91174652

78/765,108

ANSWER TO REQUESTS FOR ADMISSION

The answers provided below are in accordance with the Rules for Federal Rule of Civil and with the Rules of the Trademark Rules of Practice.

1. The answer to Question 1. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108 to include non-carbonated beverages is NO. We do not produce a beverage, but a nutraceutical with a recommended daily dosage of 1oz/day. Our application includes fruit juices and fruit juice concentrates, though we just use the concentrates. We do not produce a beverage but produce a pulp puree.
2. The answer to Question 2 in the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108 to include fruit-flavored beverages is NO. We do not product a fruit flavored beverage, but produce a fruit product. Our application includes fruit juices and fruit juice concentrates, though we just use the concentrates, We do not produce a beverage but produce a pulp puree.



3. The answer to Question 3 in the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108 to include beverage products is NO. We do not product fruit flavored beverage, but product a fruit product. Our application includes fruit juices and fruit juice concentrates, though we just use the concentrates. We do not produce a beverage but produce a pulp puree.
4. The answer to Question 4 in the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant was aware of the Opposer's use of a lightning bolt design prior to forming an intent to use the Amazon Thunder mark is NO. I did not know that it was a lightning bolt, as I don't drink their products as it contains sugar.
5. The answer to Question 5. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant was aware of the Opposer's use of a lightning bolt prior to filing an application, to use the Amazon Thunder mark is YES, in the context that the applicant is aware of the Opposer's product and the use of A form of lightning bolt, and NO. I did not know that it was a lightning bolt, as I don't drink their products as it contains sugar.
6. The answer to Question 6.in the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant was aware of the Opposer's use of a lightning bolt in Gatorade prior to forming an intent to use the Amazon Thunder mark is NO, NO. I did not know that it was a lightning bolt, as I don't drink their products as it contains sugar.
7. The answer to Question 7. in the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant was aware of the Opposer's use of a lightning bolt in Gatorade prior to filing an application is NO. I did not know that it was a lightning bolt, as I don't drink their products as it contains sugar.

8. The answer to Question 8. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant was aware of beverage products sold under the Gatorade mark is YES. Applicant was aware that there were products sold under Gatorade.
9. The answer to Question 9 and 10. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant was aware of beverage products sold under the Gatorade mark in forming an intent and filing the application is YES.
10. The answer to Question 10 in the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant was aware that the Opposer's mark was famous in forming an intent and prior to the intent to use the Amazon thunder mark is YES, we were aware that their mark was "famous".
11. The answer to Question 11 in the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant was aware that the Opposer's mark was famous in forming an intent and prior to filing an application is YES, we were aware that their mark was "famous".
12. The answer to Question 12 in the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that Amazon Thunder was aware that the Opposer's mark was extensively advertised prior to forming an intent and prior to filing an application is NO, we were not aware that their mark was extensively advertised.
13. The answer to Question 13. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that Amazon Thunder was aware that the Opposer's mark extensively advertised prior to filing an application is NO, we were not aware that their mark was extensively advertised.

14. The answer to Question 14. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant feature a lightning bolt design in NO. We do not "feature", but use a bolt in place of the alphabet letter Z in Amazon Thunder's mark. The name "Amazon Thunder" as a whole is featured.
15. The answer to Question 15. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant bolt is yellow/orange is YES.
16. The answer to Question 16. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the applicant sells Amazon Thunder products to the general public is YES.
17. The answer to Question 17. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the Applicant sells Amazon Thunder in part or in whole to the health conscious consumer is YES.
18. The answer to Question 18. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the Applicant sells Amazon Thunder in part or in whole to the athletically inclined consumer is YES.
19. The answer to Question 19. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the Applicant sells Amazon Thunder in part or in whole to the "average joes" consumer is YES.
20. The answer to Question 20. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the Applicant sells Amazon Thunder over the internet is YES.
21. The answer to Question 21. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that the Applicant sells Amazon Thunder in retail stores is YES.

22. The answer to Question 22. In the Opposer's request for Admission from Amazon Thunder in which the products is subject to application serial number 78765108, that Acai is regarded as a high energy product is NO. Acai is an anti-oxidant and anti-inflammatory with very little or no sugars naturally occurring, and no caffeine.

#### CERTIFICATE OF SERVICE

I, Robert Reum, the Applicant, hereby certify that a copy of the foregoing Answers to the Opposer's Request for Admission is being served to the attorney of the Opposer, Patricia S. Smart, 19 S. Lasalle Street, suite 1300, Chicago, IL, 60603 on this 21<sup>th</sup> day of November, 2007, by first fedex ground prepaid.

