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

Proceeding	91168732
Party	Defendant 2 Manatees, L.L.C.
Correspondence Address	DANA YEATMAN BLADWIN JONES GIVENS GOTCHER & ROGAN PC 15 E 5TH ST STE 3800 TULSA, OK 74103-4309 UNITED STATES tbogan@jonesgotcher.com
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Tadd J.P. Bogan
Filer's e-mail	tbogan@jonesgotcher.com
Signature	/Tadd J.P. Bogan/
Date	12/19/2007
Attachments	7581-0020.pldgs.answer second amend notice of opp.pdf (6 pages)(128430 bytes)

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

RA SCOTTSDALE CORP.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91168732
)	Serial No.: 76/574049
2 Manatees, L.L.C.,)	
)	
Applicant.)	

ANSWER TO SECOND AMENDED NOTICE OF OPPOSITION

COMES NOW, 2 Manatees, L.L.C. (“Applicant”), and for it Answer to Opposer’s Second Amended Notice of Opposition filed by RA Scottsdale Corp. substituted for RA Sushi Holding Corp. (“Opposer”), states the following. Unless specifically admitted herein, Applicant denies each and every allegation in Opposer’s Second Amended Notice of Opposition. Subject to the foregoing, Applicant responds to Opposer’s Second Amended Notice of Opposition as follows:

1. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 1, and therefore, denies the same.
2. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 2, and therefore, denies the same.
3. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 3, and therefore, denies the same.
4. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 4, and therefore, denies the same.
5. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 5, and therefore, denies the same.

6. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 6, and therefore, denies the same.

7. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 7, and therefore, denies the same.

8. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 8, and therefore, denies the same.

9. Applicant admits that it operates a restaurant in Tulsa, Oklahoma under the name "In the Raw" the remaining allegations contained in paragraph number 9 are denied.

10. Applicant denies the allegations contained in paragraph number 10 of Opposer's Second Amended Notice of Opposition.

11. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 11, and therefore, denies the same.

12. Applicant admits that it referred to itself as In The Raw Sushi on its web promotion attached to Opposer's Second Amended Notice of Opposition as Exhibit A.

13. Applicant admits the allegations contained in paragraph number 13 of Opposer's Second Amended Notice of Opposition.

14. Applicant admits the allegations contained in paragraph number 14 of Opposer's Second Amended Notice of Opposition.

15. Applicant admits the allegations contained in paragraph number 15 of Opposer's Second Amended Notice of Opposition.

16. Applicant denies that it has received negative or critical reviews in the press.

17. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 17, and therefore, denies the same. In fact, Applicant denies that any of the “reviews” of the blog sites attached to Opposer’s Second Amended Notice of Opposition are in fact reliable or verifiable reviews by qualified persons.

18. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 18, and therefore, denies the same. In fact, Applicant denies that any of the “reviews” of the blog sites attached to Opposer’s Second Amended Notice of Opposition are in fact reliable verifiable reviews.

19. Applicant is without sufficient knowledge to either admit or deny the allegations contained in paragraph number 19, and therefore, denies the same.

20. Applicant denies the allegations contained in paragraph number 20 of Opposer’s Second Amended Notice of Opposition.

21. Applicant denies the allegations contained in paragraph number 21 of Opposer’s Second Amended Notice of Opposition.

22. Applicant denies the allegations contained in paragraph number 22 of Opposer’s Second Amended Notice of Opposition.

23. Applicant denies the allegations contained in paragraph number 23 of Opposer’s Second Amended Notice of Opposition.

24. Applicant denies the allegations contained in paragraph number 24 of Opposer’s Second Amended Notice of Opposition.

25. Applicant denies the allegations contained in paragraph number 25 of Opposer’s Second Amended Notice of Opposition.

AFFIRMATIVE DEFENSES

First Affirmative Defense

(waiver)

Opposer, by its own actions, has waived any claims of opposition it may have against Applicant's use of its mark.

Second Affirmative Defense

(Estoppel)

Opposer's claims of opposition are barred by the doctrine of estoppel.

Third Affirmative Defense

(Statute of Limitations)

Opposer's claims of opposition are barred, in whole or in part, by the applicable statute of limitations.

Fourth Affirmative Defense

(Failure to State a Claim of Opposition)

Opposer has failed to set forth any bases under its opposition to justify denying Applicant's registration of the mark "In The Raw." Applicant's mark does not resemble and/or is not otherwise confused with Opposer's use of "RA," "RA Sushi" or "It's More Fun In The RA!" marks. Additionally, Opposer filed its application for registration of "It's More Fun In The RA!" on June 1, 2006, approximately 16 months after Applicant filed its application to register its "IN THE RAW" mark, and Opposer stated in that application that "no other person, firm, corporation, or association has the right to use the mark in commerce, either in identical form thereof or in a such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other

person, to cause confusion, or to cause mistake, or to deceive..." Applicant's use of "In The Raw" shall by Opposer's own admission not cause mistake or confusion and shall not deceive the trade or public for the reasons the marks are not similar, are different in appearance, sound and connotation.

Fifth Affirmative Defense

(Laches)

Opposer's opposition is barred, in whole or in part, because of the doctrine of laches.

Sixth Affirmative Defense

(Bad Faith)

The opposition filed by Opposer was filed in bad faith with unverifiable exhibits and based upon allegations that are untrue and know to be untrue when they were filed by Opposer.

Seventh Affirmative Defense

(Standing)

Opposer lacks proper standing to properly assert its opposition against Applicant.

WHEREFORE, Applicant respectfully requests the Board deny Opposer's Notice of Opposition against registration of Applicant's "In The Raw" mark. Applicant reserves the right to add additional affirmative defenses as discovery continues.

Respectfully submitted this 19th day of December, 2007.

JONES, GOTCHER & BOGAN, P.C.

By: s/Tadd J.P. Bogan

James E. Weger, OBA 9437

John W. Cannon, OBA 15738

Tadd J. P. Bogan, OBA 20962

15 E. 5th Street, Suite 3800

Tulsa, OK 74103

(918) 581-8200

Facsimile (918) 583-1189

jweger@jonesgotcher.com

Attorneys for 2 Manatees, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2007 I sent a copy of the attached and foregoing Answer to Second Amended Notice of Opposition to Opposer RA Scottsdale, Corp. *via* e-mail to Glenn S. Bacal at gbacal@jsslaw.com.

Glenn S. Bacal, Esq.
Jennings, Strouss & Salmon, PLC
16427 N. Scottsdale Rd., Suite 300
Scottsdale, AZ 85254-1597

s/Tadd J.P. Bogan

James E. Weger

John W. Cannon

Tadd J. P. Bogan