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

Proceeding	91171452
Party	Defendant THREE DOG BAKERY, INC. THREE DOG BAKERY, INC. 1843 N. TOPPING AVE. KANSAS CITY, MO 64120
Correspondence Address	THOMAS H. VAN HOOZER HOVEY WILLIAMS LLP 2405 GRAND BOULEVARD, SUITE 400 KANSAS CITY, MO 64108
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Date	07/31/2006
Attachments	Answer to the Notice of Opposition.pdf ( 3 pages )(82478 bytes )

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

JAKKS Pacific, Inc.	)	
Opposer,	)	
	)	Application No.: 76/510,643
	)	
v.	)	Mark: BARK'N BAKE OVEN
	)	
THREE DOG BAKERY, INC.	)	Opposition No.: 91171452
Applicant.	)	

**ANSWER TO NOTICE OF OPPOSITION**

Comes now Applicant, (hereinafter "Three Dog Bakery" or "Applicant") and answering the Notice of Opposition herein, admits, denies and alleges as follows:

As to the first unnumbered paragraph, Applicant is without knowledge sufficient to form a belief as to the truth of the allegations concerning the identity and location of the Opposer, and therefore denies the same, leaving Opposer to its proofs, and denies that Opposer (hereinafter "JAKKS" or "Opposer") is or will be damaged by the registration of the mark BARK'N BAKE OVEN as shown in Application No. 76/510,603 and requests that the opposition herein be dismissed.

Here follows Applicant's answers to the grounds of the opposition as set forth in the numbered paragraphs in the Notice of Opposition:

1. Applicant admits the allegations of paragraph 1 of the Notice of Opposition.
2. Applicant admits the allegations of paragraph 2 of the Notice of Opposition.
3. Applicant is without information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Notice of Opposition and therefore denies the same, leaving Opposer to its proofs.
4. Applicant denies the allegations of paragraph 4 of the Notice of Opposition.

5. Applicant admits the allegations of paragraph 5 of the Notice of Opposition with regard to the identity in sound, appearance and commercial impression of Applicant's mark BARK'N BAKE OVEN and the mark asserted by Opposer in paragraph 4 of the Notice of Opposition, but denies that Opposer is the owner of its asserted mark.

6. Applicant admits the allegations of paragraph 6 of the Notice of Opposition to the extent that the goods of Three Dog Bakery's application Serial No. 76/510,643 are "electric toy cooking ovens" and the goods of the application asserted by Opposer in paragraph 4 of the Notice of Opposition are "toy ovens," but denies that Opposer is the owner of its asserted mark.

7. Applicant denies the allegations of paragraph 7 of the Notice of Opposition.

#### **AFFIRMATIVE DEFENSES**

1. Opposer's asserted application affords it no rights superior to those of Applicant sufficient to deny Applicant's registration of its BARK'N BAKE OVEN mark.

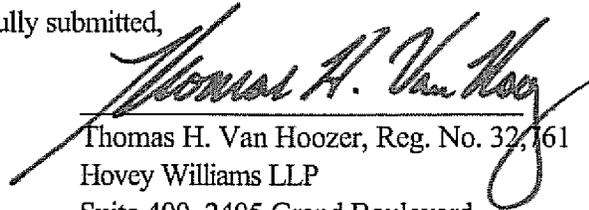
2. Opposer does not own the application asserted in paragraph 4 of the Notice of Opposition and any purported assignment of the asserted application is void.

3. Applicant and its predecessors in interest (collectively hereinafter "Applicant") have, for many years, been engaged in the business of developing and marketing dog treats and providing, inter alia, recipes for dog treats to the purchasing public under a variety of humorous and whimsical marks. The mark BARK'N BAKE OVEN was conceived by Applicant stemming from Applicant's marks for its dog treats, e.g., JUMP 'N SIT BITS, Reg. No. 1,978,181, BARK 'N FETCH, Reg. No. 2,204,009 and LICK'NCRUNCH, Reg. No. 2,867,563 and the original applicant of the application asserted by Opposer in paragraph 4 of the Notice of Opposition was informed of Applicant's selection of this mark prior to its filing, and derived from Applicant. Any rights enjoyed or asserted by Opposer

were derived from Applicant, and barred by unclean hands.

WHEREFORE, Registrant prays that the Notice of Opposition be dismissed.

Respectfully submitted,



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Attorneys for Applicant Three Dog Bakery, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 31<sup>st</sup> day of July, 2006, I served the foregoing by causing a true copy thereof to be sent via first class, postage paid, to the following:

Larry Miller  
Feder, Kaszovitz, Isaacson, Weber, Skala, Bass & Rhine LLP  
23<sup>rd</sup> Floor  
750 Lexington Avenue  
New York, NY 10022

