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

Proceeding	91181645
Party	Defendant Andrew Decker
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Submission	Answer
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Date	02/07/2008
Attachments	Decker - Answer.pdf (4 pages)(225143 bytes)

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

In re Matter of:

-----X

**The Little Mint, Inc.,
d/b/a Andy's CheeseSteaks and Cheeseburgers,**

Opposer,

v.

Reply No.

Andrew Decker

Applicant.

-----X

Application Serial No.: 77/049,551

Mark: ANDY'S OLDE FASHIONED FINE HAMBURGERS HAVE IT MY WAY

Filed: November 22, 2006

Published: September 9, 2007

ANSWER

I am the attorney of record for Andrew Decker, the applicant for Mark, ANDY'S OLDE FASHIONED FINE HAMBURGERS HAVE IT MY WAY, submit this Answer to the Opposition of The Little Mint, Inc., d/b/a Andy's CheeseSteaks and Cheeseburgers ("Little Mint") by stating as follows:

1. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained paragraphs 1, 2, and 3 of the Opposition.

COUNT I

2. Respondent herein repeats and reiterates each and every admission and denial hereto made herein with respect to paragraph 4 of Count I.
3. Respondent denies each and every allegation set forth in paragraphs 5, 6 7, 8, and 9 in Count I.

COUNT II

4. Respondent herein repeats and reiterates each and every admission and denial hereto made herein with respect to paragraph 10 of Count II.
5. Respondent denies each and every allegation contained in paragraphs 11, 12, and 13.

COUNT III

6. Respondent herein repeats and reiterates each and every admission and denial hereto made herein with respect to paragraph 14 of Count III.
7. Respondent denies each and every allegation contained in paragraphs 15, 16, 17, 18 and 19.

COUNT IV

8. Respondent herein repeats and reiterates each and every admission and denial hereto made herein with respect to paragraph 20 of Count IV.
9. Respondent denies each and every allegation contained in paragraphs 21, 23, 25, 29, 30, 31, 32, 33, 34, 35 and 36.

AS AND FOR A FIRST SEPARATE AFFIRMATIVE DEFENSE

10. Opposer's Mark is not registered.

AS AND FOR A SECOND SEPARATE AFFIRMATIVE DEFENSE

11. Equitable estoppel.

AS AND FOR A THIRD SEPARATE AFFIRMATIVE DEFENSE

12. Laches.

AS AND FOR A FOURTH SEPARATE AFFIRMATIVE DEFENSE

14. Respondent's application was filed prior to Opposer's application.

AS AND FOR A FIFTH SEPARATE AFFIRMATIVE DEFENSE

13. Respondent has established consumer recognition and goodwill in and to his Mark.

AS AND FOR A SIXTH SEPARATE AFFIRMATIVE DEFENSE

14. Respondent's Mark does not create a likelihood of confusion, mistake and/or deception among consumers with Opposer's Mark.

AS AND FOR A SEVENTH SEPARATE AFFIRMATIVE DEFENSE

15. Respondent has not abandoned his Mark.

AS AND FOR A EIGHTH SEPARATE AFFIRMATIVE DEFENSE

16. Respondent has used his Mark in commerce.

AS AND FOR A NINTH SEPARATE AFFIRMATIVE DEFENSE

17. Respondent has not made any misstatements in his application for his Mark.

AS AND FOR A TENTH SEPARATE AFFIRMATIVE DEFENSE

18. All specimens submitted by Respondent were in compliance with 15 U.S.C. §1127.

WHEREFORE, Respondent demands denial of Opposition of The Little Mint, Inc., d/b/a Andy's CheeseSteaks and Cheeseburgers, together with attorney's fees, costs and disbursements of this action.

WHEREFORE, Opposer prays that this Opposition be denied and that U.S. Trademark Application Serial No. 77/049,551 be granted.

Dated: Rye Brook, New York
January 22, 2008

/Robert G. Rafferty/
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TO:

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I hereby certify that a copy of the forgoing ANSWER has been served by Respondent upon the attorneys for the Opposer by regular mail, electronically and by facsimile on February 7, 2008 at the address listed below:

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Dated: Rye Brook, New York
February 7, 2008

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