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Filing date: **10/08/2008**

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

Proceeding	91186148
Party	Defendant The Great Atlantic & Pacific Tea Company, Inc., Inc.
Correspondence Address	ARLANA S. COHEN COWAN, LIEBOWITZ & LATMAN, P.C. 1133 AVENUE OF THE AMERICAS NEW YORK, NY 10036-6710 trademark@cll.com
Submission	Answer
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Signature	/Heather L. Jensen/
Date	10/08/2008
Attachments	Publix Opposition - Answer.pdf (5 pages)(154672 bytes)

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

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PUBLIX ASSET MANAGEMENT COMPANY,	:	
	:	
Opposer,	:	Opposition No. 91186148
	:	
v.	:	<u>APPLICANT'S ANSWER TO</u>
	:	<u>NOTICE OF OPPOSITION</u>
THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC.,	:	
	:	
Applicant.	:	

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Applicant, The Great Atlantic & Pacific Tea Company, Inc. ("Applicant"), by its undersigned counsel hereby Answers the Notice of Opposition ("Notice") filed by Opposer, Publix Asset Management Company, ("PAM"), as follows:

In response to the introductory unnumbered paragraph of the Notice, Applicant denies that Opposer is damaged herein and denies the subject Application sets forth any services.

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 1 of the Notice. Applicant objects to the collective use of the term "Publix" therein and throughout the Notice as Publix Super Markets, Inc. did not file any extensions to oppose, has not opposed, and thus has no standing herein.

2. Applicant admits the allegations set forth in paragraph 2 of the Notice.

3. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 3 of the Notice.

4. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 4 of the Notice.

5. Applicant admits Opposer PAM owns the registrations listed in paragraph 6 however, Applicant is without information sufficient to form a belief as to the validity of the registrations, or the dates of first use set forth therein or as set forth in paragraph 5 of the Notice.

6. Applicant admits that Opposer has filed Serial No. 77/476,248 which has been published however, Applicant is without information sufficient to form a belief as to the validity of the Application or the first use date set forth therein or as set forth in paragraph 6 of the Notice.

7. Applicant denies that the ownership of registrations and/or applications is evidence of use and denies any allegations to the extent they are made by any party other than Opposer PAM. Without waiving the foregoing, Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 7 of the Notice.

8. Applicant admits the allegations set forth in paragraph 8 of the Notice.

9. Applicant admits the allegations set forth in paragraph 9 of the Notice.

10. Applicant fails to comprehend the citation from 1972 in its Notice nor any other inference or allegations raised in paragraph 10 of the Notice. Without waiving the foregoing, Applicant admits it intends to use the mark applied for herein on the goods set forth in the Application.

11. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 11 of the Notice.

12. Applicant admits the allegations set forth in paragraph 12 of the Notice.

13. Applicant admits the products set forth in its Application could be sold in supermarkets. Applicant also objects to any allegations made on behalf of Publix Super Markets, Inc., who has not filed an opposition herein.

14. Applicant admits the allegations set forth in paragraph 14 of the Notice.
15. Applicant denies the allegations set forth in paragraph 15 of the Notice.
16. Applicant denies the allegations set forth in paragraph 16 of the Notice.
17. Applicant denies the allegations set forth in paragraph 17 of the Notice.
18. Applicant denies the allegations set forth in paragraph 18 of the Notice and particularly Applicant objects to any allegations made on behalf of Publix Super Markets, Inc., who has not filed an opposition herein.

19. Applicant denies the allegations set forth in paragraph 19 of the Notice and particularly Applicant objects to any allegations made on behalf of Publix Super Markets, Inc., who has not filed an opposition herein.

20. Applicant denies the allegations set forth in paragraph 20 of the Notice.
21. Applicant denies the allegations set forth in paragraph 21 of the Notice.
22. Applicant denies the allegations set forth in paragraph 22 of the Notice.
23. Applicant denies the allegations set forth in paragraph 23 of the Notice.

AFFIRMATIVE DEFENSES

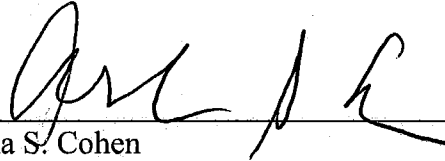
1. There is no likelihood of confusion herein.
2. Opposer fails to state a valid claim in its Notice.
3. The Opposition is barred by unclean hands.
4. The Opposition is barred by naked license and/or assignment.
5. The Opposition is barred by waiver.
6. Opposer does not have standing.
7. Publix Super Markets, Inc. does not have standing herein.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed in its entirety.

Dated: New York, New York
October 8, 2008

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

By: 

Arlana S. Cohen

Heather L. Jensen

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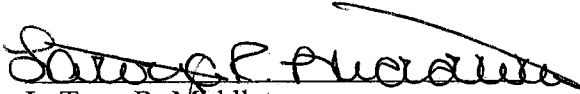
(212) 790-9237

Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 8, 2008 she caused a true copy of **Applicant's Answer to Notice of Opposition** to be served by mailing a true and correct copy thereof to Opposer's attorneys to:

James B. Lake, Esq.
Thomas & LoCicero
400 N. Ashley Drive, Suite 1100
Tampa, FL 33602


LaToya R. Middleton