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

Proceeding	91186880
Party	Defendant WTM Establishment
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Attachments	Applicant's Answer to Notice of Opposition.pdf (6 pages)(224899 bytes)

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

In the Matter of Trademark Application Serial Number 77/324,208

Filed on November 7, 2007

For the Mark BLIZZARD

Published on April 15, 2008

AMERICAN DAIRY QUEEN)	
CORPORATION,)	
)	
Opposer)	
)	
vs.)	
)	
WTM ESTABLISHMENT,)	
)	OPPOSITION No. 91186880
Applicant.)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant WTM ESTABLISHMENT (“WTM”), a Liechtenstein corporation, whose principal place of business is 1 Mitteldorf, Vaduz, Liechtenstein SL-29490, by and through its undersigned counsel, hereby answers the allegations contained in the Notice of Opposition (“Opposition”) brought by American Dairy Queen Corporation (“Opposer”) as follows:

1. Answering Paragraph 1 of the Opposition, WTM lacks sufficient knowledge or information to form a belief as to the truth of allegations contained therein, and on that basis denies such allegations.

2. Answering Paragraph 2 of the Opposition, WTM lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies such allegations.

3. Answering Paragraph 3 of the Opposition, WTM lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies such allegations.

4. Answering Paragraph 4 of the Opposition, WTM admits that the online records of the United States Trademark and Patent Office (“USPTO”) include the four registrations alleged therein, but lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained therein, and on that basis denies such allegations.

5. Answering Paragraph 5 of the Opposition, WTM lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies such allegations.

6. Answering Paragraph 6 of the Opposition, WTM lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies such allegations.

7. Answering Paragraph 7 of the Opposition, WTM admits that its application to register the mark BLIZZARD is for “wines and spirits, namely, cognac, liqueurs, rum, vodka and whiskey” in International Class 33.

8. Answering Paragraph 8 of the Opposition, WTM denies the allegations contained therein.

9. Answering Paragraph 9 of the Opposition, WTM admits that it intends to sell its goods to consumers, but lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations therein, and on that basis denies said allegations.

10. Answering Paragraph 10 of the Opposition, WTM denies said allegations.

11. Answering Paragraph 11 of the Opposition, WTM denies that Opposer’s marks are famous within the meaning of 15 U.S.C. §1125 (c), and further lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations therein, and on that basis denies said allegations.

12. Answering Paragraph 12 of the Opposition, WTM admits that the online records of the USPTO for the four registrations alleged in paragraph 4 of the Opposition reflect registration dates that precede the date of WTM's application but lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations therein, and on that basis denies said allegations.

13. Answering Paragraph 13 of the Opposition, WTM denies said allegations.

14. Answering Paragraph 14 of the Opposition, WTM denies said allegations.

15. Answering Paragraph 15 of the Opposition, WTM denies said allegations.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. The Opposition, and each allegation thereof, fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

2. The Opposition is barred on the grounds that there is no likelihood of confusion between WTM's and Opposer's marks because their respective goods are not related.

THIRD AFFIRMATIVE DEFENSE

3. The Opposition is barred on the grounds that there is no likelihood of confusion between WTM's and Opposer's marks because WTM's goods and Opposer's goods travel in different channels of trade.

FOURTH AFFIRMATIVE DEFENSE

4. The Opposition is barred on the grounds that there is no likelihood of confusion between WTM's and Opposer's marks because WTM's goods are not within Opposer's logical zone of expansion.

FIFTH AFFIRMATIVE DEFENSE

5. The Opposition is barred on the grounds that there is no likelihood of confusion between WTM's and Opposer's marks because Opposer's marks are not famous.

SIXTH AFFIRMATIVE DEFENSE

6. The Opposition is barred on the grounds that there is no likelihood of confusion between WTM's and Opposer's marks because Opposer's marks and WTM's mark are marketed to different classes of consumers.

SEVENTH AFFIRMATIVE DEFENSE

7. The Opposition is barred on the grounds that there is no dilution of Opposer's marks because Opposer's marks are not famous.

EIGHTH AFFIRMATIVE DEFENSE

8. The Opposition is barred on the grounds that there is no dilution of Opposer's marks because registration of the subject mark will not cause blurring or tarnishment of the Opposer's marks.

NINTH AFFIRMATIVE DEFENSE

9. The Opposition is barred on the grounds that there is no dilution of Opposer's marks because the Opposer does not engage in substantially exclusive use of the Opposer's marks.

TENTH AFFIRMATIVE DEFENSE

10. The Opposition is barred on the grounds that there is no dilution of Opposer's marks because the Opposer's marks do not enjoy a high degree of recognition.

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ELEVENTH AFFIRMATIVE DEFENSE

11. The Opposition is barred on the grounds that there is no dilution of Opposer's marks because there is no association, intended or actual, between the subject mark and the Opposer's marks.

Accordingly, WTM requests that the Opposition be dismissed with prejudice.

Please address all correspondence to Elena Muravina and Nathan Canby, 9601 Wilshire Blvd., Suite 710, Beverly Hills CA 90210.

WTM ESTABLISHMENT

Dated: November 17, 2008



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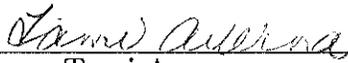
CERTIFICATE OF SERVICE

I, Tami Averno, hereby certify that a copy of the foregoing **APPLICANT'S ANSWER TO NOTICE OF OPPOSITION** was served upon American Dairy Queen Corporation's counsel at the following address:

Laura J. Hein
Gray, Plant, Mooty, Mooty & Bennett, P.A.
80 South 8th Street
Minneapolis, Minnesota 55402

by first class mail, postage prepaid, this 17th day of November 2008.

Dated: November 17, 2008



Tami Averno