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

Proceeding	91197933
Party	Defendant Hunt Club Subs N Grill, LLC
Correspondence Address	DEBRA HILL HILL & CHEVALIER, PLLC 2304 UNIVERSITY BLVD W JACKSONVILLE, FL 32217-2021 dhill@hillchevalier.com
Submission	Answer
Filer's Name	Howard A. Caplan
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Signature	/S/
Date	01/28/2011
Attachments	Answer 11-0128.pdf (3 pages)(1191334 bytes)

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

Opposition No.:91197933
Serial No.: 77/890217

JIMMY JOHN'S ENTERPRISES, LLC,
Opposer,

v.

HUNT CLUB SUBS N GRILL, LLC,
Applicant.

ANSWER

COMES NOW Hunt Club Subs N Grill, LLC ("Hunt Club"), a Florida limited liability company, by and through its undersigned attorney and responds to the Notice of Opposition filed by Jimmy John's Enterprises, LLC ("Jimmy Johns") as follows:

1. Hunt Club admits that Jimmy Johns is a national franchisor of restaurants featuring sandwiches; Hunt Club is without knowledge or information sufficient to form a belief as to the remaining averment of paragraph 1 of the Opposition.

2. Hunt Club admits paragraph 2 of the Opposition.

3. Hunt Club admits paragraph 3 of the Opposition.

4. Hunt Club admits paragraph 4 of the Opposition.

5. Hunt Club admits paragraph 5 of the Opposition.

6. Hunt Club denies that its HUNT CLUB SUBS N GRILL with design mark

is confusingly similar the HUNTER'S CLUB word only mark of Jimmy John's; Hunt Club denies that its mark is likely to cause confusion or mistake in the minds of the consuming public nor lead the public or prospective purchasers to believe that Hunt Club's services are in any manner endorsed, sponsored, affiliated with, or associated with Jimmy John's.

AFFIRMATIVE DEFENSES

First Affirmative Defense

7. Hunt Club's HUNT CLUB SUBS N GRILL with design mark is sufficiently dissimilar in appearance, sound, connotation, and commercial impression from the word only mark of Jimmy John's to not be likely to confuse the public as to the source of its services.

Second Affirmative Defense

8. There is sufficient dissimilarity between Hunt Club's mark being used for restaurant services and the Jimmy John's mark used for a sandwich to avoid confusion by the purchasing public.

Third Affirmative Defense

9. There is sufficient dissimilarity in the conditions under which buyers would make purchases of the respective parties goods and services. Namely, purchasers of Jimmy John's HUNTER'S CLUB sandwich are required to order and purchase that specific sandwich from within a Jimmy John's outlet or from the Jimmy John's website. Purchasers of Hunt Club's restaurant services could do so merely by entering a Hunt Club outlet, or visiting its website, and ordering any menu item. The parties respective goods and services cannot logically be simultaneously perceived.

WHEREFORE, Applicant requests this Opposition be dismissed and the application

mature into registration.

Dated January 28, 2011

Respectfully submitted,

CAPLAN LAW FIRM, P.A.

By:_____

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Certificate of Service

I CERTIFY that a copy of the foregoing has been sent to Mark I. Feldman, Esquire, c/o DLA Piper, LLP, PO Box 64807, Chicago, Illinois 60664-0807, by first class U.S. Mail this 28th day of January, 2011.

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ATTORNEY