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

Proceeding	91211279
Party	Defendant Liquid Evolutions LLC
Correspondence Address	BRAD M BEHAR BRAD M BEHAR & ASSOCIATES PLLC 94 2ND ST MINEOLA, NY 11501-3008 UNITED STATES
Submission	Answer
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Date	08/05/2013
Attachments	8-5-13 FINAL Answer and Affirmative Defenses to Notice of Opposition - TEMPTI-TEASERS 91210046.pdf(117082 bytes)

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

In the Matter of Application No. 85/721,375
Published on February 26, 2013 for TEMPTI-TEASERS

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FIREFLY DISTILLING COMPANY LLC	:	OPPOSITION NO. 91211279
Opposer,	:	
	:	
vs.	:	APPLICANT’S ANSWER AND
	:	AFFIRMATIVE DEFENSES
	:	
LIQUID EVOLUTIONS, LLC	:	
Applicant.	:	
-----X		

**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES
TO NOTICE OF OPPOSITION**

Applicant, Liquid Evolutions, LLC (hereinafter “Applicant”), by its undersigned counsel, hereby answers the notice of opposition as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 and the allegations are therefore denied.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 and the allegations are therefore denied.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 and the allegations are therefore denied.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 and the allegations are therefore denied.
5. Applicant admits that it filed U.S. application serial number 85/721,375 for the mark TEMPTI-TEASERS on September 5, 2012 under Section 1(b) of the Trademark Act for “Alcoholic beverages except beers; Prepared alcoholic cocktails” in International Class 33,

otherwise, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 and the allegations are therefore denied.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 and the allegations are therefore denied.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 and the allegations are therefore denied.

8. Denied.

9. Denied.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 and the allegations are therefore denied.

11. Applicant admits that U.S. application serial number 85/721,375 for the mark TEMPTI-TEASERS for “Alcoholic beverages except beers; Prepared alcoholic cocktails” in International Class 33 does not contain any express limitation on channels of trade, otherwise Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 and the allegations are therefore denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

FIRST AFFRIMATIVE DEFENSE
Lack of Standing

Opposer lacks standing because Opposer has not used its asserted mark of the FIREFLY TEASERS (with Design) in commerce and Opposer does not have a registration for the FIREFLY TEASERS (with Design) mark.

SECOND AFFRIMATIVE DEFENSE
Unclean Hands

Opposer is barred from seeking the relief requested in the Notice of Opposition by virtue of unclean hands.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be dismissed and that Application Serial No. 85/721,375 proceed to registration.

Respectfully submitted,
BRAD M. BEHAR & ASSOCIATES, PLLC

Dated: August 5, 2013

/s/Brad M. Behar
Brad M. Behar
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Mineola, NY 11501-3008
(516) 741-6500

Attorneys for Applicant
LIQUID EVOLUTIONS, LLC

CERTIFICATE OF SERVICE

I certify that on this 5th day of August 2013, the accompanying APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES was caused to be served on Opposer Firefly Distilling Company LLC by electronically filing one copy thereof with the United States Patent and Trademark Office Trademark Trial and Appeal Board and by depositing a copy via United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Opposer's counsel of record:

John Paul Oleksiuk, Esq.
Cooley LLP
1299 Pennsylvania Avenue, NW Suite 700
Washington, DC 20004

/s/ Brad M. Behar
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