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Filing date: **10/02/2014**

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

Proceeding	91212640
Party	Defendant Starts CC, Inc.
Correspondence Address	STEVEN J NATAUPSKY KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN ST FL 14 IRVINE, CA 92614 8214 UNITED STATES efiling@knobbe.com
Submission	Opposition/Response to Motion
Filer's Name	Steven J. Nataupsky
Filer's e-mail	efiling@knobbe.com
Signature	/steven j. nataupsky/
Date	10/02/2014
Attachments	Applicant's Opposition to Motion to Compel Discovery - STAR-BUF.024M.pdf(179072 bytes ) Ex 1 - Opp to Motion to Compel - Certs of Service of April 2014 discovery requests.pdf(36881 bytes ) Ex 2 - Opp to Motion to Compel - OPC email re extension of time.pdf(193926 bytes ) Ex 3 - Opp to Motion to Compel - Apps responses to 1st Rogs.pdf(604641 bytes ) Ex 4 - Opp to Motion to Compel - Apps responses to 1st Docs.pdf(426797 bytes ) Ex 5 - Opp to Motion to Compel - Certs of Service of July 2014 discovery requests.pdf(34621 bytes ) Ex 6 - Opp to Motion to Compel - Apps responses to 2nd Rogs.pdf(342067 bytes ) Ex 7 - Opp to Motion to Compel - Apps responses to 2nd Docs.pdf(274746 bytes ) Ex 8 - Opp to Motion to Compel - Notice of Opp.pdf(32596 bytes )

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

Buffets, Inc.,

Opposer,

v.

Starts CC, Inc.

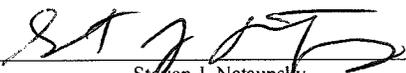
Applicant.

) Opposition No.: 91212640  
) Serial No.: 85/802,394  
)

) Mark: J.J. NORTH'S COUNTRY  
) BUFFET & DESIGN  
)

) I hereby certify that this correspondence and all marked  
) attachments are being electronically filed with the Trademark Trial  
) and Appeal Board through their web site located at  
) <http://estia.uspto.gov> on:

October 2, 2014  
(Date)

  
Steven J. Nataupsky

**APPLICANT'S OPPOSITION TO OPPOSER'S MOTION TO COMPEL DISCOVERY**

**I. INTRODUCTION**

Opposer moves to compel certain responses to interrogatories and the production of documents. Opposer's motion should be denied for the reasons set forth below.

**II. STATEMENT OF FACTS**

Opposer's supporting timeline in its Motion is incomplete and inaccurate in several respects. All of Applicant's discovery responses were timely served.

On April 1, 2014, Opposer served its first set of Interrogatories and Request for the Production of Documents. Responses to interrogatories and requests for production of documents must be served within 30 days from the date of service. 37 CFR § 2.120(a)(3). An exception to this 30 day rule arises if service of the discovery is made by mail, in which case five extra days

are allowed for responding. *See* TBMP §§ 113.05, 403.03. Accordingly, as Opposer's requests were served by mail, the deadline to respond to Opposer's first requests for discovery was May 5, 2014. (Ex. 1).

Parties may stipulate to extending the time to respond to discovery requests. 37 CFR § 2.120(a)(3). On May 1, 2014, Applicant's counsel sent an email to Opposer's counsel requesting a 30 day extension. (Ex. 2 at 2). On May 2, 2014 Opposer's counsel responded to Applicant indicating that "the extension is fine." (Ex. 2 at 1). Accordingly, per the parties' agreement, the deadline for responding to Opposer's first requests for discovery was June 6, 2014; Applicant's responses were timely served on that day. (Exs. 3-4).

On July 31, 2014, Opposer served its second set of Interrogatories and Request for Production of Documents, again by mail. (Ex. 5). As such, Applicant's responses to Opposer's second requests for discovery were due on September 4, 2014. Applicant's responses were timely served on that day. (Exs. 6-7).

Applicant timely responded to all requests for discovery submitted by Opposer.

### **III. MEMORANDUM OF LAW**

#### **A. Applicant's Objections to Opposer's Interrogatories and Request for Production of Documents are Proper and Should be Sustained**

As discussed below in the same order as in the Motion to Compel, Applicant properly responded to Opposer's Interrogatories and Applicant's objections to Opposer's Interrogatories as detailed in Applicant's Responses dated June 6, 2014 and September 4, 2014, are appropriate.

##### **1. Opposer's First Set of Discovery Requests**

**a. Document Requests**

Opposer alleges that Applicant has failed to produce documents in response to Opposer's document requests no. 1 and 2. Subject to Applicant's objections, Applicant submits that all relevant documents obtained after a reasonable search have been produced to Opposer. (Ex. 4 at 5-6). Applicant respectfully submits that the Board should deny the Motion to Compel with respect to Opposer's Request Nos. 1 and 2 in its First Request for Production.

**b. Interrogatories**

Opposer asserts that Applicant has failed to answer Interrogatory no. 7. Applicant maintains its objections to Opposer's Interrogatory no. 7 and submits further that this information is irrelevant. (Ex. 3 at 11-12).

Opposer complains that Applicant has not supplemented answers to Opposer's Interrogatories no. 3 and 6. The information requested in Interrogatory no. 3 has already been produced on document SB00116. (Ex. 3 at 8-9). As to Interrogatory no. 6, Applicant has investigated and submits that it was unable to locate any additional relevant information. (Ex. 3 at 11). Applicant respectfully submits that the Board should deny the Motion to Compel.

**2. Opposer's Second Set of Discovery Requests**

**a. Opposer's Interrogatory No. 2(c)**

Opposer's Interrogatory No. 2(c) sought information relating to Applicant's plan and expenditures from June 2013 to the present to resume the use of the mark J.J. North's Country Buffet.

Applicant maintains its objections to Opposer's Interrogatory No. 2(c) as set forth in Applicant's Responses, including but not limited to the objection that the interrogatory seeks

information that is not relevant to the proceeding. (Ex. 6 at 8-9). Applicant's future use of the mark J.J. North's Country Buffet is highly confidential and has no relevance to the issue of whether there is confusion between the marks. In Re Arthur M. Kurek, 85267214, 2012 WL 2930646 (Trademark Tr. & App. Bd. June 26, 2012) (non-precedential ) ("Additionally, applicant's purported acquisition of "Don't Care Sports Wear" as a domain name/address for future use is not relevant to the question of likelihood of confusion"). Applicant respectfully submits that the Board should deny the Motion to Compel with respect to Interrogatory No. 2(c).

**b. Opposer's Request for Documents No. 1**

Opposer's Request No. 1 in its Second Request for Production sought documents created by Applicant relating to its efforts in responding to Opposer's Second Set of Requests for Interrogatories.

Applicant submits that subject to Applicant's objections, all relevant documents obtained after a reasonable search have been produced to Opposer. (Ex. 7 at 5). Applicant respectfully submits that the Board should deny the Motion to Compel with respect to Opposer's Request No. 1 in its Second Request for Production.

**c. Opposer's Request for Documents No. 4**

Opposer's Request No. 4 in its Second Request for Production sought documents pertaining to Applicant's intention to resume use of the mark J.J. North's Country Buffet.

Applicant maintains its objections to Opposer's Request No. 4 in its Second Request for Production as set forth in Applicant's Responses, including but not limited to the objection that the request seeks information that is not relevant to the proceeding. (Ex. 7 at 7). Opposer argues that the requested documents are material to the issue of abandonment. Abandonment has not been pled in this proceeding and accordingly any information regarding that issue is irrelevant.

(Ex. 8). Applicant respectfully submits that the Board should deny the Motion to Compel with respect to Opposer's Request No. 4 in its Second Request for Production.

Respectfully submitted,  
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 2, 2014

By:   
Steven J. Nataupsky  
Tirzah Abé Lowe  
Hans L. Mayer  
2040 Main Street, 14th Floor  
Irvine, CA 92614  
(949) 760-0404  
efiling@knobbe.com  
Attorneys for Applicant,  
Starts CC, Inc.

19018742/100114

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing **OPPOSER'S OPPOSITION TO APPLICANT'S MOTION TO COMPEL** upon Opposer's counsel, by depositing a copy thereof in the United States Mail, first-class prepaid, on October 2, 2014, addressed as follows.

Ryan R. Palmer  
Monroe Moxness Berg PA  
8000 Norman Center Drive, Suite 1000  
Minneapolis, MN 55437

  
Pam Pascual

19018742/100114

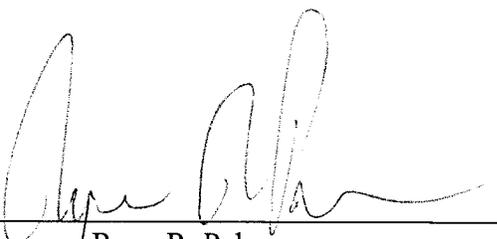
# **EXHIBIT 1**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Requests for Interrogatories has been served on Applicant's counsel by mailing said copy on April 1, 2014, via Certified Mail, Return Receipt Requested, postage prepaid to the following address:

Steven J. Nataupsky  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614

Dated: April 1, 2014

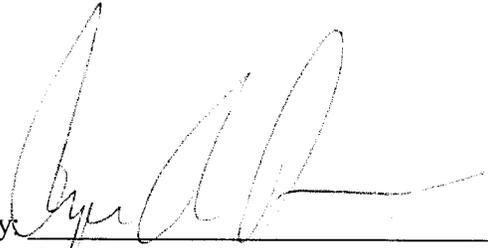
By:   
\_\_\_\_\_  
Ryan R. Palmer  
Attorney for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Requests for the Production of Documents has been served on Applicant's counsel by mailing said copy on April 1, 2014, via Certified Mail, Return Receipt Requested, postage prepaid to the following address:

Steven J. Nataupsky  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614

Dated: April 1, 2014

By   
\_\_\_\_\_  
Ryan R. Palmer  
Attorney for Opposer

MMB: 4850-1231-4393, v. 1

# **EXHIBIT 2**

## **Pam.Pascual**

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**From:** Steven.Nataupsky  
**Sent:** Friday, May 02, 2014 2:01 PM  
**To:** Ryan R. Palmer  
**Subject:** RE: J. J. North's Country Buffet Opposition

Ryan, thank you. Have a great weekend. Steven

---

**From:** Ryan R. Palmer [<mailto:RPalmer@mmblawfirm.com>]  
**Sent:** Friday, May 02, 2014 2:01 PM  
**To:** Steven.Nataupsky  
**Subject:** RE: J. J. North's Country Buffet Opposition

Steven- Just heard back; the extension is fine. Thanks for checking.

Ryan

Ryan R. Palmer  
Attorney  
**MONROE MOXNESS BERG PA**  
7760 France Avenue South  
Suite 700  
Minneapolis, MN 55435-5844  
T 952.885.5999  
D 952.885.4386  
F 952.885.5969  
[www.MMBLawFirm.com](http://www.MMBLawFirm.com)

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**From:** Steven.Nataupsky [<mailto:Steven.Nataupsky@knobbe.com>]  
**Sent:** Friday, May 02, 2014 1:18 PM  
**To:** Ryan R. Palmer  
**Subject:** RE: J. J. North's Country Buffet Opposition

Ryan, thank you. Steven

---

**From:** Ryan R. Palmer [<mailto:RPalmer@mmblawfirm.com>]  
**Sent:** Friday, May 02, 2014 11:05 AM  
**To:** Steven.Nataupsky  
**Subject:** RE: J. J. North's Country Buffet Opposition

Steven – I'm waiting to hear back from my client's general counsel's office and I will forward a response as soon as I receive one.

Ryan

Ryan R. Palmer  
Attorney  
**MONROE MOXNESS BERG PA**  
7760 France Avenue South  
Suite 700  
Minneapolis, MN 55435-5844

T 952.885.5999  
D 952.885.4386  
F 952.885.5969  
[www.MMBLawFirm.com](http://www.MMBLawFirm.com)

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**From:** Steven.Nataupsky [<mailto:Steven.Nataupsky@knobbe.com>]  
**Sent:** Friday, May 02, 2014 12:34 PM  
**To:** Ryan R. Palmer  
**Cc:** Trademark  
**Subject:** RE: J. J. North's Country Buffet Opposition

Ryan, I wanted to follow up on the below email. Please also let me know if there is another attorney at your firm I should copy on my emails. If I don't hear back please note that I will need to file a Motion for the 30 day extension with the Board. I look forward to your response. Thank you. Steven

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**From:** Steven.Nataupsky  
**Sent:** Thursday, May 01, 2014 11:03 AM  
**To:** 'Ryan R. Palmer'  
**Subject:** J. J. North's Country Buffet Opposition

Ryan, I see that our discovery responses are due next Tuesday. The principal of our client is traveling. May we have a 30 day extension to respond? We of course would grant a similar courtesy once we serve discovery. Thank you for your consideration. Steven

**Steven J. Nataupsky**  
Steven.Nataupsky@knobbe.com  
(949) 760-0404

**Knobbe Martens**  
INTELLECTUAL PROPERTY LAW  
**five decades. one focus.**  
2040 Main St., 14th Fl.  
Irvine, CA 92614  
[www.knobbe.com](http://www.knobbe.com)

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# **EXHIBIT 3**

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

Buffets, Inc.,	)	Opposition No.: 91212640
	)	Serial No.: 85/802,394
Opposer,	)	Mark: J.J. NORTH'S COUNTRY
	)	BUFFET and Design
v.	)	
	)	
Starts CC, Inc.	)	
	)	
Applicant.	)	
	)	

---

**APPLICANT STARTS CC, INC.'S RESPONSES TO  
OPPOSER BUFFETS, INC.'S FIRST SET OF INTERROGATORIES (NOS. 1-13)**

Pursuant to the Rules of Practice of the United States Patent and Trademark Office, and the applicable Federal Rules of Civil Procedure, Applicant hereby responds to Opposer's First Set of Interrogatories as set forth below.

**PRELIMINARY STATEMENT**

1. The following responses are based upon information presently available to and located by Applicant and its counsel and reflect the current state of Applicant's knowledge, understanding and belief respecting the matters about which inquiry was made. Applicant has not completed its investigation of the facts relating to this action or preparation for trial and anticipates that as this action proceeds, further facts may be discovered. Without obligating itself to do so, Applicant reserves the right to modify or supplement these responses with any such pertinent information.

2. Applicant's responses are made without in any way waiving or intending to waive, but on the contrary, intending to preserve and preserving:

- a. The right to raise all questions of authenticity, relevancy, materiality, privilege and admissibility as evidence for any purpose of the information and the documents identified and/or produced in response to these requests, which may arise in any subsequent proceeding in, or the trial of, this or any other action;
- b. The right to object to the use of the information and/or documents in any subsequent proceeding in, or the trial of, this or any other action on any grounds;
- c. The right to object on any ground at any time to other interrogatories, requests, or other discovery involving the information and/or documents or the subject matter thereof; and
- d. The right to make subsequent answers if Applicant uncovers additional information and/or documents called for by these requests as discovery is still ongoing and Applicant's investigation of the facts and the evidence pertinent to this action has not been completed.

3. Words and terms used in the following responses shall be construed in accordance with their normal meanings and connotations, and shall in no way be interpreted as terms of art or statutorily defined terms used in the patent and trademark laws, and Applicant specifically disavows any such meaning or connotation that might be accorded to such terms.

4. Without waiving the objections set forth below, and subject to the limitations stated above, Applicant has provided the information it believes is responsive and the subject of

legitimate discovery which has been uncovered by reasonable investigation.

5. Specific objections to various requests are made in the responses set forth below.

In addition to those specific objections, Applicant generally objects to the requests as follows:

### **GENERAL OBJECTIONS**

The following General Objections are incorporated by reference in response to each of Opposer's Interrogatories and are not waived with respect to any response.

1. Applicant generally objects to Opposer's Interrogatories to the extent they seek disclosure of any information protected, privileged or immune, or otherwise exempt from discovery pursuant to applicable state and federal statutes, the Federal Rules of Civil Procedure, case law, regulations, administrative orders, or any other applicable rules, decisions, or laws including, but not limited to, information protected by the attorney-client privilege, the work product doctrine and/or other applicable privilege. The specific objections stated below on the grounds of attorney-client privilege and/or work product in no way limit the generality of this objection. Nothing contained in this response is intended to be nor should be considered a waiver of any attorney-client privilege, work product protection, the right of privacy, or any other applicable privilege or doctrine, and to the extent that any request may be construed as calling for disclosure of information protected by such privileges or doctrines, a continuing objection to each and every such interrogatory is hereby imposed. Any such protected information will not be provided, although a privilege log will be produced if there are any protected documents responsive to any of these interrogatories.

2. Applicant objects generally to Opposer's Interrogatories to the extent that Opposer purports to require Applicant to identify on a privilege log any documents or information protected by the attorney-client privilege, the work product doctrine, or other applicable privilege that were

generated by its counsel or agents for internal use and/or privileged communications between or among Applicant and its counsel since the commencement of this proceeding. The applicability of the attorney-client privilege and/or work product doctrine is so clear and the burden of identifying each such document is so great that requiring Applicant to do so would be so burdensome as to result in injustice and would be oppressive in that the burden imposed thereby would be incommensurate with the result sought by Opposer.

3. Applicant generally objects to Opposer's Interrogatories, including the instructions and definitions, to the extent they purport to impose upon Applicant obligations greater than those imposed by the Federal Rules of Civil Procedure, 37 CFR § 2.120(d), or other applicable rules or law.

4. Applicant generally objects to Opposer's Interrogatories to the extent that they seek information that is not calculated to lead to the discovery of admissible evidence or to the extent that Opposers's Interrogatories seek the disclosure of information, documents or things beyond the scope of discovery as provided by the Federal Rules of Civil Procedure, 37 CFR § 2.120(d), or other applicable rules or law.

5. Some of Opposer's Interrogatories contain discrete subparts. To the extent Applicant considers any Interrogatory having discrete subparts to constitute a single Interrogatory, Applicant objects to each such Interrogatory as being contrary to the Fed. R. Civ. P. 33(a) and 37 CFR § 2.120(d).

6. Applicant generally objects to Opposers's Interrogatories to the extent they seek information concerning "all" or "any" documents, persons or entities concerning a particular subject on the grounds that performing searches of such breadth is unduly burdensome. In its

search for relevant documents, Applicant has made, or will make, a reasonable search as required by the Federal Rules of Civil Procedure.

7. Applicant generally objects to Opposer's Interrogatories to the extent that they call for information that is protected from disclosure by agreements Applicant has with another entity, if any, or obligations Applicant has to another entity, if any.

8. Applicant further objects to Applicant's definition of the term "your" and "you" to the extent that it defines that terms more broadly than, or imposes obligations in excess of, Rule 34 of the Federal Rules of Civil Procedure.

9. Applicant further objects to Applicant's definition of the term "Documents" to the extent that it defines that term more broadly than, or imposes obligations in excess of, Rule 34 of the Federal Rules of Civil Procedure.

10. Applicant further objects to Opposer's definitions of "identify" and "identity" to the extent that they seek to impose obligations on Applicant that are in excess of the obligations imposed by the Federal Rules of Civil Procedure.

11. Applicant further objects to Opposer's definitions and instructions in the discovery requests to the extent they make the individual requests vague, ambiguous, or unintelligible, in that Applicant attributes new meanings to ordinary words or define the same word to have multiple meanings.

## **RESPONSES TO INTERROGATORIES**

### **INTERROGATORY NO. 1:**

To the extent not set forth in Applicant's Rule 26(a) Initial Disclosures, identify all persons who have information or knowledge, or who you know claim to have the same, with

respect to any factual matters relevant or material to the defenses of Applicant or the claims of Opposer, and for each person identified, state the subject matter of such person's knowledge.

**RESPONSE TO INTERROGATORY NO. 1:**

Applicant incorporates by this reference its General Objections as if set forth fully herein.

Subject to and without waiving the foregoing objections, Applicant identifies Ron Dowdy, Group Controller, Secretary-Treasurer at Star Buffet, Inc., John F. North, Jr. and James North of North's Restaurants Inc.

**INTERROGATORY NO. 2:**

State whether Applicant has entered into any agreement permitting another person to offer or sell products or services under a mark consisting of or containing the term J.J. NORTH'S COUNTRY BUFFET. For any and each such agreement, describe the product or services authorized for sale under the agreement and identify the parties to and effective date of said agreement.

**RESPONSE TO INTERROGATORY NO. 2:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant further objects to this request to the extent that it seeks the disclosure of confidential information or information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing objections, Applicant has not entered into any agreement permitting another person to offer or sell products or services under a mark consisting of or containing the term J.J. NORTH'S COUNTRY BUFFET. Applicant itself,

Subject to and without waiving the foregoing objections, Applicant responds as follows:

- a. The mark under which each such product or service is, was or will be offered or sold:

Applicant offers products or services at least using the mark J.J. NORTH'S COUNTRY BUFFET. The mark J.J. NORTH'S GRAND BUFFET has also been used. Applicant is investigating additional materials and will provide a supplemental response in due course.

- b. The nature and price of each such product or service:

The products and services that are, were or will be offered or sold by Applicant for each year from 2012 to the present under the mark J.J. NORTH'S COUNTRY BUFFET include restaurant services and a variety of foods and beverages within a restaurant.

- c. The intended purchasers of each such product or service;

The intended purchases of each such product or service are individuals who eat at restaurants.

- d. The channels of distribution for each such product or service;

Applicant submits that the channels of distribution in which Applicant's Marks are intended to be or are used include restaurants.

- e. The date on which each such product or service was first offered and first sold by Applicant;

Applicant first offered and first sold products or services under the mark J.J. NORTH'S COUNTRY BUFFET on or about September 30, 1997.

- f. The geographical area in which such product or service is, was or will be offered or sold:

however, is a licensee of the term J.J. NORTH'S COUNTRY BUFFET from Applicant's parent corporation, Star Buffet, Inc.

**INTERROGATORY NO. 3:**

Describe in detail any and all products and services, including without limitation those services identified in Opposer's U.S. Registration Nos. 2987516, 2149716, 2051197, 2051196, 2048119, 1423419, 1343558 that are, were or will be offered or sold by Applicant or any licensee of Applicant for each year from 2012 to the present under the mark J.J. NORTH'S COUNTRY BUFFET or any other mark, including:

- a. The mark under which each such product or service is, was or will be offered or sold;
- b. The nature and price of each such product or service;
- c. The intended purchasers of each such product or service;
- d. The channels of distribution for each such product or service;
- e. The date on which each such product or service was first offered and first sold by Applicant;
- f. The geographical area in which such product or service is, was or will be offered or sold;
- g. Whether such product or service is still offered or sold by Applicant; and
- h. The total annual sales in dollars and units of each such product or service.

**RESPONSE TO INTERROGATORY NO. 3:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad.

The geographical area in which such product or service is, was or will be offered or sold includes the states of Washington, Oregon, Idaho, and Arizona.

g. Whether such product or service is still offered or sold by Applicant:

Products or services under the mark J.J. NORTH'S COUNTRY BUFFET were available up until June of 2013, when the last remaining store, located in Scottsdale, Arizona, was closed. Applicant intends on resuming use of the mark and is in the process of doing so.

h. The total annual sales in dollars and units of each such product or service.

Applicant is investigating additional materials and will provide a supplemental response in due course.

**INTERROGATORY NO. 4:**

State whether Applicant has received any inquiries as to whether any product or service furnished by Opposer is associated with, sponsored by, or in any manner connected with Applicant. If the answer is anything other than a categorical, unqualified no, state:

- a. The identity of the person making such inquiry;
- b. State the date of such inquiry;
- c. Identify the party to whom such inquiry was made; and
- d. Identify any documents concerning such inquiry.

**RESPONSE TO INTERROGATORY NO. 4:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad.

Subject to and without waiving the foregoing objections, Applicant has received no such inquiries.

**INTERROGATORY NO. 5:**

Identify and describe any lawsuit or Patent and Trademark Office opposition (other than the present proceeding) in the United States in which Applicant is a party involving or relating to the use or registration of a mark that consist of or contains the words J.J. NORTH'S COUNTRY BUFFET.

**RESPONSE TO INTERROGATORY NO. 5:**

Applicant incorporates by this reference its General Objections as if set forth fully herein.

Subject to and without waiving the foregoing objections, Applicant is not aware of any such lawsuits or oppositions involving or relating to the use or registration of a mark that consist of or contains the words J.J. NORTH'S COUNTRY BUFFET.

**INTERROGATORY NO. 6:**

Identify each item of promotional literature, sales literature or advertising produced by or for Applicant for distribution in the United States in which the designation J.J. NORTH'S COUNTRY BUFFET is referred to or appears, and for each such item of literature or advertising:

- a. State the dates of such production and distribution of each item;
- b. State the number of each item produced and the number distributed;
- c. State the categories or persons and organizations to whom copies of each item were distributed; and
- d. Identify all documents (including but not limited to purchasers, invoices, correspondence and other materials) concerning the creation of copy and layout for each item of such literature or advertising, and concerning the printing of each such item.

**RESPONSE TO INTERROGATORY NO. 6:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad.

Subject to and without waiving the foregoing objections, Applicant identifies the following promotional literature, sales literature or advertising produced by Applicant for distribution in the United States in connection with the mark J.J. NORTH'S COUNTRY BUFFET: menu boards, radio ads, newspaper ads, table tents, and point of purchase displays. Applicant is investigating additional materials and will provide a supplemental response in due course.

**INTERROGATORY NO. 7:**

State, on a month-to-month basis, the actual advertising and promotional expenditures of Applicant from 2012 to the present relating to goods or services offered or distributed by Applicant or any licensee of Applicant in the United States bearing the mark J.J. NORTH'S COUNTRY BUFFET. For each such month, indicate the state in which such expenditures were made and the amount of the expenditures in each such state, and the amount of any such expenditures for national advertising and promotion.

**RESPONSE TO INTERROGATORY NO. 7:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant further objects to this request to the extent that it seeks the disclosure of confidential information or information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing objections, Applicant will provide the information under a suitable protective order.

**INTERROGATORY NO. 8:**

Identify all facts, circumstances, witnesses and documents you contend support the affirmative defenses contained in your Answer and Affirmative Defense to Notice of Opposition.

**RESPONSE TO INTERROGATORY NO. 8:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant further objects to this request to the extent that it seeks the disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing objections Applicant contends that Opposer's purported marks are descriptive, lack secondary meaning, and that there is no consumer confusion. COUNTRY BUFFET is merely descriptive of a style of dining where consumers may select from a wide variety of foods commonly found in "rural as distinguished from urban areas." Several other restaurants use the term COUNTRY BUFFET in their name including "Ole Times Country Buffet" with numerous locations in South Georgia and North Florida and "Jenkins Country Style Buffet" in East Ridge, TN. In addition, many buffet restaurants offer "Country Style Buffets" as a dining option.

**INTERROGATORY NO. 9:**

Identify all facts and circumstances evidencing, relating to or referring to Applicant's policing efforts with respect to the J.J. NORTH'S COUNTRY BUFFET mark.

**RESPONSE TO INTERROGATORY NO. 9:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad.

Subject to and without waiving the foregoing objections, Applicant is not aware of a party who has infringed the J.J. NORTH'S COUNTRY BUFFET mark.

**INTERROGATORY NO. 10:**

Identify all facts, circumstances, witnesses and documents known to Applicant evidencing, referring to or relating to any third-party use of the J.J. NORTH'S COUNTRY BUFFET mark.

**RESPONSE TO INTERROGATORY NO. 10:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant further objects to this request to the extent that it seeks the disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing objections, the J.J. NORTH'S COUNTRY BUFFET mark was licensed back to the original owner, North's Restaurants Inc., for use in the four restaurants they retained ownership of. Applicant has not granted rights to any other third-party for use of the J.J. NORTH'S COUNTRY BUFFET mark.

**INTERROGATORY NO. 11:**

Identify each person whom Applicant expects to call as an expert witness and state with respect to each such person:

- a. The subject matter on which the expert is expected to testify;
- b. The substance of the facts and opinions to which the expert is expected to testify; and
- c. A summary of the basis for each opinion.

**RESPONSE TO INTERROGATORY NO. 11:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is premature and seeks contentions or other information that Applicant cannot provide at this stage of the case.

**INTERROGATORY NO. 12:**

Identify all persons who Applicant may call to give testimony in this matter. With regard to each such person, provide the subject matter and factual matters with regard to which the witness may be asked to give testimony.

**RESPONSE TO INTERROGATORY NO. 12:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is premature and seeks contentions or other information that Applicant cannot provide at this stage of the case.

**INTERROGATORY NO. 13:**

Identify all persons, other than counsel for Applicant, who participated in the preparation of answers or responses to these Interrogatories.

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**RESPONSE TO INTERROGATORY NO. 13:**

Applicant incorporates by this reference its General Objections as if set forth fully herein.

Subject to and without waiving the foregoing objections, Applicant identifies Bob Wheaton and Ron Dowdy.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 6, 2014

By: 

Steven J. Nataupsky  
Tirzah Abé Lowe  
Hans L. Mayer  
2040 Main Street, 14th Floor  
Irvine, CA 92614  
(949) 760-0404  
efiling@knobbe.com  
Attorneys for Applicant,  
Starts CC, Inc.

18133959/060414

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing APPLICANT STARTS CC, INC.'S RESPONSES TO OPPOSER BUFFETS, INC.'S FIRST SET OF INTERROGATORIES (NOS. 1-13) upon Opposer's counsel, by depositing a copy thereof in the United States Mail, first-class prepaid, on June 6, 2014, addressed as follows.

Ryan R. Palmer  
Monroe Moxness Berg PA  
7760 France Avenue South, Suite 700  
Minneapolis, MN 55435



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Pamela Pascual

18133959/060414

# **EXHIBIT 4**

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

Buffets, Inc.,	)	Opposition No.: 91212640
	)	Serial No.: 85/802,394
Opposer,	)	Mark: J.J. NORTH'S COUNTRY
	)	BUFFET and Design
v.	)	
	)	
Starts CC, Inc.	)	
	)	
Applicant.	)	
	)	
	)	

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**APPLICANT STARTS CC, INC.'S RESPONSES TO OPPOSER BUFFETS, INC.'S  
REQUEST FOR THE PRODUCTION OF DOCUMENTS (NOS. 1-9)**

Pursuant to the Rules of Practice of the United States Patent and Trademark Office, and the applicable Federal Rules of Civil Procedure, Starts CC, Inc, (“Applicant”) hereby responds to Buffets, Inc.’s (“Opposer”) First Set of Requests for Production of Documents (“Requests”) as set forth below.

**PRELIMINARY STATEMENT**

1. The following responses are based upon information presently available to and located by Applicant and its counsel and reflect the current state of Applicant’s knowledge, understanding and belief respecting the matters about which inquiry was made. Applicant has not completed its investigation of the facts relating to this proceeding or preparation for trial and anticipates that as discovery proceeds, further facts may be discovered. Without obligating itself

to do so, Applicant reserves the right to modify or supplement these responses with any such pertinent information.

2. Applicant's responses are made without in any way waiving or intending to waive, but on the contrary, intending to preserve and preserving:

- a. The right to raise all questions of authenticity, relevancy, materiality, privilege and admissibility as evidence for any purpose of the information and the documents identified and/or produced in response to these requests, which may arise in any subsequent proceeding in, or the trial of, this or any other action.
- b. The right to object to the use of the information and/or documents in any subsequent proceeding in, or the trial of, this or any other action on any grounds;
- c. The right to object on any ground at any time to other interrogatories, requests, or other discovery involving the information and/or documents or the subject matter thereof; and
- d. The right to make subsequent answers if Applicant uncovers additional information and/or documents called for by these requests as discovery is still ongoing and Applicant's investigation of the facts and the evidence pertinent to this action has not been completed.

3. Words and terms used in the following responses shall be construed in accordance with their normal meanings and connotations, and shall in no way be interpreted as terms of art or statutorily defined terms used in the trademark laws, and Applicant specifically disavows any such meaning or connotation that might be accorded to such terms.

4. Specific objections to various requests are made in the responses set forth below.

In addition to those specific objections, Applicant generally objects to the requests as follows:

### GENERAL OBJECTIONS

1. Applicant objects generally to the instructions and definitions in the Requests to the extent that those instructions and definitions fail to comply with or impose obligations in excess of Rule 34 of the Federal Rules of Civil Procedure.

2. Applicant objects to the Requests to the extent they seek "all documents" concerning a particular subject on the ground that Applicant would be required to search for documents from every person in the company. Applicant objects to performing searches of such breadth on the grounds of undue burden and expense. Searching for relevant documents, Applicant has made, and will make, inquiry of all persons who are reasonably likely to have such documents.

3. Applicant objects to the Requests to the extent that they call for the production of information, documents or things protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or other limitation on discovery. Applicant has stated its privilege objections expressly in its response to each request that would, in its view, reasonably be interpreted to encompass privileged information, documents or things. Should any other request encompass privileged information, documents or things, however, Applicant hereby asserts this general objection. Moreover, should any such response by Applicant occur, it was inadvertent and shall not constitute a waiver of privilege or of Applicant's right to object during this litigation or otherwise to the use of any such information, documents or things.

4. Applicant objects to the Requests to the extent that they seek information, documents or things that are not relevant to the opposition, or are not reasonably calculated to lead to the

discovery of admissible evidence. Specifically, Applicant objects to producing documents related to information outside of the United States.

5. Applicant further objects to Opposer's definitions and instructions in the discovery requests to the extent they make the individual requests vague, ambiguous, or unintelligible, in that Opposer attributes new meanings to ordinary words or defines the same word to have multiple meanings.

6. Applicant objects to the Requests to the extent that they are overbroad, unduly burdensome, or fail to describe the information, documents or things sought with a reasonable degree of specificity. Applicant will attempt to construe the terms and phrases used by Opposer in ways to give those terms and phrases meanings that will result in the production of relevant information, documents and things designed to lead to the discovery of admissible evidence.

7. Applicant further objects to the discovery requests to the extent they call for information that is protected from disclosure by agreements Applicant has with another entity, if any, or obligations Applicant has to another entity, if any.

8. Applicant objects to each request to the extent that it calls for the production or identification of attorney-client privilege and/or work product documents generated by Applicant's counsel or its agents for internal use and/or privileged communications between or among Applicant and its counsel since the commencement of this action. The applicability of the attorney-client privilege and/or work product doctrine to such documents is so clear and the burden of identifying each such document is so great that requiring Applicant to do so would be so burdensome as to result in injustice and would be oppressive in that the burden imposed thereby would be incommensurate with the result sought by Opposer.

9. Applicant has performed a diligent search for information, documents and things

responsive to the Requests. Discovery is ongoing, however, and Applicant's investigation is continuing. Therefore, Applicant reserves its right to supplement its responses herein and its production with any responsive, non-privileged information, documents or things that may be subsequently discovered.

## **RESPONSES TO REQUEST FOR THE PRODUCTION OF DOCUMENTS**

### **DOCUMENT REQUEST NO. 1:**

The originals or copies<sup>1</sup> of any and all documents or writings including, without limitation, all correspondence, notes, e-mails, electronic messages, memoranda, directives to personnel, agreements, reports, notices, maps, drawings, memorandum or memoranda of telephone or personal conversations, transcripts, tape or other recordings by or between the Applicant, its agents or employees, or any persons acting on its behalf relating directly or indirectly to any of the matters referred to in any pleadings herein, or in any answer by Applicant to Opposer's Interrogatories served contemporaneously herewith.

### **RESPONSE TO DOCUMENT REQUEST NO. 1:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

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<sup>1</sup> For purposes of this Request for Production of Documents, copies are to be produced only if originals are not available or if the copies contain notations or other matter not found in the originals.

Subject to and without waiving these objections, Applicant will produce responsive documents to the extent that such documents are not privileged, pursuant to a suitable protective order.

**DOCUMENT REQUEST NO. 2:**

The originals or copies of any and all correspondence, memoranda, inter- or intra-office communications or other writings by or between the Applicant, its agents or employees, or any persons acting on its behalf, relating directly or indirectly to any of the matters referred to in any pleadings herein, or any answer by Applicant to Opposer's Interrogatories served contemporaneously herewith.

**RESPONSE TO DOCUMENT REQUEST NO. 2:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections, Applicant will produce responsive documents to the extent that such documents are not privileged, pursuant to a suitable protective order.

**DOCUMENT REQUEST NO. 3:**

Any and all documents identified, referred or used by Applicant in the course of preparing answers to Opposer's Interrogatories served contemporaneously herewith.

**RESPONSE TO DOCUMENT REQUEST NO. 3:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections, Applicant will produce responsive documents to the extent that such documents are not privileged.

**DOCUMENT REQUEST NO. 4:**

Any and all documents responsive to any of Opposer's Interrogatories served contemporaneously herewith.

**RESPONSE TO DOCUMENT REQUEST NO. 4:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections, Applicant will produce responsive documents to the extent that such documents are not privileged.

**DOCUMENT REQUEST NO. 5:**

Any and all documents that evidence, refer, or relate to Applicant's use of the mark J.J. NORTH'S COUNTRY BUFFET.

**RESPONSE TO DOCUMENT REQUEST NO.5:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections Applicant will produce responsive, non-privileged documents to the extent that such documents exist and are within Applicant's possession, custody or control.

**DOCUMENT REQUEST NO. 6:**

Any and all documents that evidence, refer to, or relate to marketing, advertising and promotional expenditures for goods or services offered or distributed under the J.J. NORTH'S COUNTRY BUFFET mark.

**RESPONSE TO DOCUMENT REQUEST NO.6:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections Applicant will produce responsive, non-privileged documents to the extent that such documents exist and are within Applicant's possession, custody or control.

**DOCUMENT REQUEST NO. 7:**

Any and all documents that evidence, refer to, or relate to Applicant's advertising and promotion of the J.J. NORTH'S COUNTRY BUFFET mark.

**RESPONSE TO DOCUMENT REQUEST NO.7:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections Applicant will produce responsive, non-privileged documents to the extent that such documents exist and are within Applicant's possession, custody or control.

**DOCUMENT REQUEST NO. 8:**

All documents or items of physical or demonstrative evidence which Applicant may introduce in this proceeding regardless of whether Applicant has made a determination whether it will actually use the document or item.

**RESPONSE TO DOCUMENT REQUEST NO.8:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege. Applicant further objects to this request to the extent that it is premature and seeks documents that Applicant cannot provide at this stage of the case.

**DOCUMENT REQUEST NO. 9:**

Any and all documents you, your attorney, or your representatives have provided to any experts, regardless of whether you plan to call said experts as witnesses in this proceeding.

**RESPONSE TO DOCUMENT REQUEST NO.9:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege. Applicant further objects to this request to the extent that it is premature and seeks documents that Applicant cannot provide at this stage of the case.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 6, 2014

By: \_\_\_\_\_



Steven J. Nataupsky  
Tirzah Abé Lowe  
Hans L. Mayer  
2040 Main Street, 14th Floor  
Irvine, CA 92614  
(949) 760-0404  
efiling@knobbe.com  
Attorneys for Applicant,  
Starts CC, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing **APPLICANT STARTS CC, INC.'S RESPONSES TO OPPOSER BUFFETS, INC.'S REQUEST FOR THE PRODUCTION OF DOCUMENTS (NOS. 1-9)** upon Opposer's counsel, by depositing a copy thereof in the United States Mail, first-class prepaid, on June 6, 2014, addressed as follows.

Ryan R. Palmer  
Monroe Moxness Berg PA  
7760 France Avenue South, Suite 700  
Minneapolis, MN 55435

  
\_\_\_\_\_  
Pamela Pascual

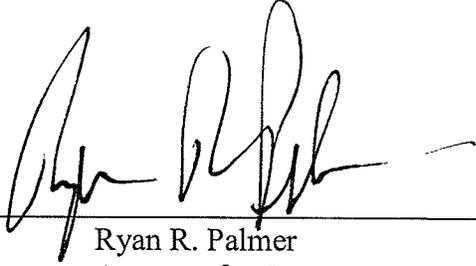
# **EXHIBIT 5**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Second Set of Requests for Interrogatories has been served on Applicant's counsel by mailing said copy on July 31, 2014, via UPS Overnight Delivery to the following address:

Steven J. Nataupsky  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614

Dated: July 31, 2014

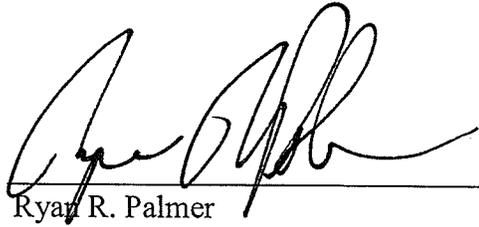
By:   
\_\_\_\_\_  
Ryan R. Palmer  
Attorney for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Second Set of Requests for the Production of Documents has been served on Applicant's counsel by mailing said copy on July 31, 2014, via UPS Overnight Delivery to the following address:

Steven J. Nataupsky  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614

Dated: July 31, 2014

By:   
\_\_\_\_\_  
Ryan R. Palmer  
Attorney for Opposer

# **EXHIBIT 6**

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

Buffets, Inc.,	)	Opposition No.: 91212640
	)	Serial No.: 85/802,394
	)	Mark: J.J. NORTH’S COUNTRY
Opposer,	)	BUFFET and Design
	)	
v.	)	
	)	
Starts CC, Inc.	)	
	)	
Applicant.	)	
	)	
	)	

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**APPLICANT STARTS CC, INC.’S RESPONSES TO  
OPPOSER BUFFETS, INC.’S SECOND SET OF INTERROGATORIES (NOS. 1-2)**

Pursuant to the Rules of Practice of the United States Patent and Trademark Office, and the applicable Federal Rules of Civil Procedure, Applicant hereby responds to Opposer’s Second Set of Interrogatories as set forth below.

**PRELIMINARY STATEMENT**

1. The following responses are based upon information presently available to and located by Applicant and its counsel and reflect the current state of Applicant’s knowledge, understanding and belief respecting the matters about which inquiry was made. Applicant has not completed its investigation of the facts relating to this action or preparation for trial and anticipates that as this action proceeds, further facts may be discovered. Without obligating itself to do so, Applicant reserves the right to modify or supplement these responses with any such pertinent information.

2. Applicant's responses are made without in any way waiving or intending to waive, but on the contrary, intending to preserve and preserving:

- a. The right to raise all questions of authenticity, relevancy, materiality, privilege and admissibility as evidence for any purpose of the information and the documents identified and/or produced in response to these requests, which may arise in any subsequent proceeding in, or the trial of, this or any other action;
- b. The right to object to the use of the information and/or documents in any subsequent proceeding in, or the trial of, this or any other action on any grounds;
- c. The right to object on any ground at any time to other interrogatories, requests, or other discovery involving the information and/or documents or the subject matter thereof; and
- d. The right to make subsequent answers if Applicant uncovers additional information and/or documents called for by these requests as discovery is still ongoing and Applicant's investigation of the facts and the evidence pertinent to this action has not been completed.

3. Words and terms used in the following responses shall be construed in accordance with their normal meanings and connotations, and shall in no way be interpreted as terms of art or statutorily defined terms used in the patent and trademark laws, and Applicant specifically disavows any such meaning or connotation that might be accorded to such terms.

4. Without waiving the objections set forth below, and subject to the limitations stated above, Applicant has provided the information it believes is responsive and the subject of

legitimate discovery which has been uncovered by reasonable investigation.

5. Specific objections to various requests are made in the responses set forth below.

In addition to those specific objections, Applicant generally objects to the requests as follows:

### **GENERAL OBJECTIONS**

The following General Objections are incorporated by reference in response to each of Opposer's Interrogatories and are not waived with respect to any response.

1. Applicant generally objects to Opposer's Interrogatories to the extent they seek disclosure of any information protected, privileged or immune, or otherwise exempt from discovery pursuant to applicable state and federal statutes, the Federal Rules of Civil Procedure, case law, regulations, administrative orders, or any other applicable rules, decisions, or laws including, but not limited to, information protected by the attorney-client privilege, the work product doctrine and/or other applicable privilege. The specific objections stated below on the grounds of attorney-client privilege and/or work product in no way limit the generality of this objection. Nothing contained in this response is intended to be nor should be considered a waiver of any attorney-client privilege, work product protection, the right of privacy, or any other applicable privilege or doctrine, and to the extent that any request may be construed as calling for disclosure of information protected by such privileges or doctrines, a continuing objection to each and every such interrogatory is hereby imposed. Any such protected information will not be provided, although a privilege log will be produced if there are any protected documents responsive to any of these interrogatories.

2. Applicant objects generally to Opposer's Interrogatories to the extent that Opposer purports to require Applicant to identify on a privilege log any documents or information protected by the attorney-client privilege, the work product doctrine, or other applicable privilege that were

generated by its counsel or agents for internal use and/or privileged communications between or among Applicant and its counsel since the commencement of this proceeding. The applicability of the attorney-client privilege and/or work product doctrine is so clear and the burden of identifying each such document is so great that requiring Applicant to do so would be so burdensome as to result in injustice and would be oppressive in that the burden imposed thereby would be incommensurate with the result sought by Opposer.

3. Applicant generally objects to Opposer's Interrogatories, including the instructions and definitions, to the extent they purport to impose upon Applicant obligations greater than those imposed by the Federal Rules of Civil Procedure, 37 CFR § 2.120(d), or other applicable rules or law.

4. Applicant generally objects to Opposer's Interrogatories to the extent that they seek information that is not calculated to lead to the discovery of admissible evidence or to the extent that Opposers's Interrogatories seek the disclosure of information, documents or things beyond the scope of discovery as provided by the Federal Rules of Civil Procedure, 37 CFR § 2.120(d), or other applicable rules or law.

5. Some of Opposer's Interrogatories contain discrete subparts. To the extent Applicant considers any Interrogatory having discrete subparts to constitute a single Interrogatory, Applicant objects to each such Interrogatory as being contrary to the Fed. R. Civ. P. 33(a) and 37 CFR § 2.120(d).

6. Applicant generally objects to Opposers's Interrogatories to the extent they seek information concerning "all" or "any" documents, persons or entities concerning a particular subject on the grounds that performing searches of such breadth is unduly burdensome. In its

search for relevant documents, Applicant has made, or will make, a reasonable search as required by the Federal Rules of Civil Procedure.

7. Applicant generally objects to Opposer's Interrogatories to the extent that they call for information that is protected from disclosure by agreements Applicant has with another entity, if any, or obligations Applicant has to another entity, if any.

8. Applicant further objects to Applicant's definition of the term "your" and "you" to the extent that it defines that terms more broadly than, or imposes obligations in excess of, Rule 34 of the Federal Rules of Civil Procedure.

9. Applicant further objects to Applicant's definition of the term "Documents" to the extent that it defines that term more broadly than, or imposes obligations in excess of, Rule 34 of the Federal Rules of Civil Procedure.

10. Applicant further objects to Opposer's definitions of "identify" and "identity" to the extent that they seek to impose obligations on Applicant that are in excess of the obligations imposed by the Federal Rules of Civil Procedure.

11. Applicant further objects to Opposer's definitions and instructions in the discovery requests to the extent they make the individual requests vague, ambiguous, or unintelligible, in that Applicant attributes new meanings to ordinary words or define the same word to have multiple meanings.

## **RESPONSES TO INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Describe in detail any and all products and services that were offered or sold by Applicant or any licensee or affiliate of Applicant for each year from 1997 to 2012 under the mark J.J. NORTH'S COUNTRY BUFFET or any other mark, including:

- (a) The mark under which each such product or service is or was offered or sold;
- (b) The nature and price of each such product or service;
- (c) The intended purchasers of each such product or service;
- (d) The channels of distribution for each such product or service;
- (e) The date on which each such product or service was first offered and first sold by Applicant;
- (f) The geographical area in which such product or service is or was offered or sold;
- (g) Whether such product or service is still offered or sold by Applicant; and
- (h) The total annual sales in dollars and units of each such product or service.

### **RESPONSE TO INTERROGATORY NO. 1:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant further objects to this request to the extent that it seeks the disclosure of confidential information or information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing objections, Applicant responds as follows:

(a) The mark under which each such product or service is or was offered or sold;

Applicant offers products or services at least using the mark J.J. NORTH'S COUNTRY BUFFET. The mark J.J. NORTH'S GRAND BUFFET has also been used.

(b) The nature and price of each such product or service;

The products and services that were offered or sold by Applicant for each year from 1997 to 2012 under the mark J.J. NORTH'S COUNTRY BUFFET or J.J. NORTH'S GRAND BUFFET include restaurant services and a variety of foods and beverages within a restaurant. The price of each such product or service will be produced herewith.

(c) The intended purchasers of each such product or service;

The intended purchasers of each such product or service are individuals who eat at restaurants.

(d) The channels of distribution for each such product or service;

Applicant further objects to this portion of Interrogatory No. 1 as vague. Subject to and without waiving the forgoing objection, Applicant submits that the channels of distribution in which Applicant's Marks are intended to be or are used include restaurants.

(e) The date on which each such product or service was first offered and first sold by Applicant;

Applicant first offered and first sold products or services under the mark J.J. NORTH'S COUNTRY BUFFET or J.J. NORTH'S GRAND BUFFET at least as early as September 30, 1997.

(f) The geographical area in which such product or service is or was offered or sold;

The geographical area in which such product or service is or was offered or sold includes the states of Washington, Oregon, Idaho, and Arizona.

(g) Whether such product or service is still offered or sold by Applicant; and

Such product or service is not currently offered or sold by Applicant pending resolution of a Federal Bankruptcy proceeding.

(h) The total annual sales in dollars and units of each such product or service.

Subject to and without waiving the forgoing objection, Applicant will provide such data to the extent it is available.

**INTERROGATORY NO. 2:**

Describe in detail Applicant's plans on resuming the use of the mark J.J. NORTH'S COUNTRY BUFFET, including, without limitation:

(a) All steps Applicant has taken to resume using the mark J.J. NORTH'S COUNTRY BUFFET;

(b) The products or services that will be offered under the mark J.J. NORTH'S COUNTRY BUFFET;

(c) All expenditures Applicant has made from June 2013 to the present to resume the use of the mark J.J. NORTH'S COUNTRY BUFFET; and

(d) The expected opening date and location of any restaurant or business associated with the mark J.J. NORTH'S COUNTRY BUFFET.

**RESPONSE TO INTERROGATORY NO. 2:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly

burdensome and overly broad. Applicant further objects to this request to the extent that it seeks the disclosure of confidential information or information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing objections, Applicant responds as follows:

(a) All steps Applicant has taken to resume using the mark J.J. NORTH'S COUNTRY BUFFET;

Applicant's parent company is currently in bankruptcy and is therefore working on developing a bankruptcy plan with the intent to resume using the marks.

(b) The products or services that will be offered under the mark J.J. NORTH'S COUNTRY BUFFET;

The products and services that will be offered under the mark J.J. NORTH'S COUNTRY BUFFET include restaurant services and a variety of foods and beverages within a restaurant.

(c) All expenditures Applicant has made from June 2013 to the present to resume the use of the mark J.J. NORTH'S COUNTRY BUFFET; and

Applicant further objects to this portion of the Interrogatory on the basis that this information is not relevant.

(d) The expected opening date and location of any restaurant or business associated with the mark J.J. NORTH'S COUNTRY BUFFET.

Applicant is currently in bankruptcy and the opening date and location of any restaurant or business associated with the mark J.J. NORTH'S COUNTRY BUFFET will depend on the outcome of the bankruptcy proceeding.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 4, 2014

By: \_\_\_\_\_

  
Steven J. Nataupsky

Tirzah Abé Lowe

Hans L. Mayer

2040 Main Street, 14th Floor

Irvine, CA 92614

(949) 760-0404

[efiling@knobbe.com](mailto:efiling@knobbe.com)

Attorneys for Applicant,

Starts CC, Inc.

18751689/082714

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing APPLICANT STARTS CC, INC.'S RESPONSES TO OPPOSER BUFFETS, INC.'S SECOND SET OF INTERROGATORIES (NOS. 1-2) upon Opposer's counsel, by depositing a copy thereof in the United States Mail, first-class prepaid, on September 4, 2014, addressed as follows.

Ryan R. Palmer  
Monroe Moxness Berg PA  
7760 France Avenue South, Suite 700  
Minneapolis, MN 55435

  
\_\_\_\_\_  
Pamela Pascual

18751689/082714

# **EXHIBIT 7**

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

Buffets, Inc.,	)	Opposition No.: 91212640
	)	Serial No.: 85/802,394
Opposer,	)	Mark: J.J. NORTH’S COUNTRY
	)	BUFFET and Design
v.	)	
	)	
Starts CC, Inc.	)	
	)	
Applicant.	)	
	)	
	)	

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**APPLICANT STARTS CC, INC.’S RESPONSES TO OPPOSER BUFFETS, INC.’S  
SECOND REQUEST FOR THE PRODUCTION OF DOCUMENTS (NOS. 1-4)**

Pursuant to the Rules of Practice of the United States Patent and Trademark Office, and the applicable Federal Rules of Civil Procedure, Starts CC, Inc, (“Applicant”) hereby responds to Buffets, Inc.’s (“Opposer”) Second Set of Requests for Production of Documents (“Requests”) as set forth below.

**PRELIMINARY STATEMENT**

1. The following responses are based upon information presently available to and located by Applicant and its counsel and reflect the current state of Applicant’s knowledge, understanding and belief respecting the matters about which inquiry was made. Applicant has not completed its investigation of the facts relating to this proceeding or preparation for trial and anticipates that as discovery proceeds, further facts may be discovered. Without obligating itself

to do so, Applicant reserves the right to modify or supplement these responses with any such pertinent information.

2. Applicant's responses are made without in any way waiving or intending to waive, but on the contrary, intending to preserve and preserving:

- a. The right to raise all questions of authenticity, relevancy, materiality, privilege and admissibility as evidence for any purpose of the information and the documents identified and/or produced in response to these requests, which may arise in any subsequent proceeding in, or the trial of, this or any other action.
- b. The right to object to the use of the information and/or documents in any subsequent proceeding in, or the trial of, this or any other action on any grounds;
- c. The right to object on any ground at any time to other interrogatories, requests, or other discovery involving the information and/or documents or the subject matter thereof; and
- d. The right to make subsequent answers if Applicant uncovers additional information and/or documents called for by these requests as discovery is still ongoing and Applicant's investigation of the facts and the evidence pertinent to this action has not been completed.

3. Words and terms used in the following responses shall be construed in accordance with their normal meanings and connotations, and shall in no way be interpreted as terms of art or statutorily defined terms used in the trademark laws, and Applicant specifically disavows any such meaning or connotation that might be accorded to such terms.

4. Specific objections to various requests are made in the responses set forth below.

In addition to those specific objections, Applicant generally objects to the requests as follows:

### **GENERAL OBJECTIONS**

1. Applicant objects generally to the instructions and definitions in the Requests to the extent that those instructions and definitions fail to comply with or impose obligations in excess of Rule 34 of the Federal Rules of Civil Procedure.

2. Applicant objects to the Requests to the extent they seek “all documents” concerning a particular subject on the ground that Applicant would be required to search for documents from every person in the company. Applicant objects to performing searches of such breadth on the grounds of undue burden and expense. Searching for relevant documents, Applicant has made, and will make, inquiry of all persons who are reasonably likely to have such documents.

3. Applicant objects to the Requests to the extent that they call for the production of information, documents or things protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or other limitation on discovery. Applicant has stated its privilege objections expressly in its response to each request that would, in its view, reasonably be interpreted to encompass privileged information, documents or things. Should any other request encompass privileged information, documents or things, however, Applicant hereby asserts this general objection. Moreover, should any such response by Applicant occur, it was inadvertent and shall not constitute a waiver of privilege or of Applicant’s right to object during this litigation or otherwise to the use of any such information, documents or things.

4. Applicant objects to the Requests to the extent that they seek information, documents or things that are not relevant to the opposition, or are not reasonably calculated to lead to the

discovery of admissible evidence. Specifically, Applicant objects to producing documents related to information outside of the United States.

5. Applicant further objects to Opposer's definitions and instructions in the discovery requests to the extent they make the individual requests vague, ambiguous, or unintelligible, in that Opposer attributes new meanings to ordinary words or defines the same word to have multiple meanings.

6. Applicant objects to the Requests to the extent that they are overbroad, unduly burdensome, or fail to describe the information, documents or things sought with a reasonable degree of specificity. Applicant will attempt to construe the terms and phrases used by Opposer in ways to give those terms and phrases meanings that will result in the production of relevant information, documents and things designed to lead to the discovery of admissible evidence.

7. Applicant further objects to the discovery requests to the extent they call for information that is protected from disclosure by agreements Applicant has with another entity, if any, or obligations Applicant has to another entity, if any.

8. Applicant objects to each request to the extent that it calls for the production or identification of attorney-client privilege and/or work product documents generated by Applicant's counsel or its agents for internal use and/or privileged communications between or among Applicant and its counsel since the commencement of this action. The applicability of the attorney-client privilege and/or work product doctrine to such documents is so clear and the burden of identifying each such document is so great that requiring Applicant to do so would be so burdensome as to result in injustice and would be oppressive in that the burden imposed thereby would be incommensurate with the result sought by Opposer.

9. Applicant has performed a diligent search for information, documents and things

responsive to the Requests. Discovery is ongoing, however, and Applicant's investigation is continuing. Therefore, Applicant reserves its right to supplement its responses herein and its production with any responsive, non-privileged information, documents or things that may be subsequently discovered.

## **RESPONSES TO REQUEST FOR THE PRODUCTION OF DOCUMENTS**

### **DOCUMENT REQUEST NO. 1:**

All documents or writings, including, without limitation, all correspondence, notes, e-mails, electronic messages, memoranda, directives to personnel, agreements, reports, notices, maps, drawings, memorandum or memoranda of telephone or personal conversations, transcripts, tape or other recordings by or between the Applicant, its agent or employees, or any persons acting on its behalf relating directly or indirectly to Opposer's Second Set of Requests for Interrogatories served contemporaneously herewith or Applicant's answers thereto.

### **RESPONSE TO DOCUMENT REQUEST NO. 1:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections, Applicant will produce responsive documents to the extent that such documents exist and are not privileged, pursuant to a suitable protective order.

**DOCUMENT REQUEST NO. 2:**

Any and all documents identified, referred or used by Applicant in the course of preparing answers to Opposer's Second Set of Requests for Interrogatories served contemporaneously herewith.

**RESPONSE TO DOCUMENT REQUEST NO. 2:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections, Applicant will produce responsive documents to the extent that such documents exist and are not privileged.

**DOCUMENT REQUEST NO. 3:**

Any and all documents responsive to any of Opposer's Second Set of Requests for Interrogatories served contemporaneously herewith.

**RESPONSE TO DOCUMENT REQUEST NO. 3:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege.

Subject to and without waiving these objections, Applicant will produce responsive documents to the extent that such documents exist and are not privileged.

**DOCUMENT REQUEST NO. 4:**

Any and all documents that evidence, refer, or relate to Applicant's intention to resume use of the mark J.J. NORTH'S COUNTRY BUFFET.

**RESPONSE TO DOCUMENT REQUEST NO. 4:**

Applicant incorporates by this reference its General Objections as if set forth fully herein. Applicant further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Applicant also objects to this request to the extent that it seeks production of confidential documents or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege. Applicant further objects to this request on the ground that it is not relevant.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 4, 2014

By: \_\_\_\_\_

  
Steven J. Nataupsky

Tirzah Abé Lowe

Hans L. Mayer

2040 Main Street, 14th Floor

Irvine, CA 92614

(949) 760-0404

[efiling@knobbe.com](mailto:efiling@knobbe.com)

Attorneys for Applicant,

Starts CC, Inc.

18751778/082714

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing **APPLICANT STARTS CC, INC.'S RESPONSES TO OPPOSER BUFFETS, INC.'S SECOND REQUEST FOR THE PRODUCTION OF DOCUMENTS (NOS. 1-4)** upon Opposer's counsel, by depositing a copy thereof in the United States Mail, first-class prepaid, on September 4, 2014, addressed as follows.

Ryan R. Palmer  
Monroe Moxness Berg PA  
7760 France Avenue South, Suite 700  
Minneapolis, MN 55435



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Pamela Pascual

18751778/082714

# **EXHIBIT 8**

ESTTA Tracking number: **ESTTA561074**

Filing date: **09/24/2013**

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

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Buffets, Inc.
Granted to Date of previous extension	09/25/2013
Address	1020 Discovery Road Suite 100 Eagan, MN 55121 UNITED STATES

Attorney information	Ryan R. Palmer Monroe Moxness Berg PA 8000 Norman Center Drive Suite 1000 Minneapolis, MN 55437 UNITED STATES trademarks@mmlawfirm.com Phone:9528855999
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### Applicant Information

Application No	85802394	Publication date	05/28/2013
Opposition Filing Date	09/24/2013	Opposition Period Ends	09/25/2013
Applicant	STARTS CC, INC. 1312 N. SCOTTSDALE ROAD SCOTTSDALE, AZ 85257 UNITED STATES		

### Goods/Services Affected by Opposition

Class 043. First Use: 2012/11/01 First Use In Commerce: 2012/11/01  
All goods and services in the class are opposed, namely: Restaurant services

### Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2987516	Application Date	06/11/2004
Registration Date	08/23/2005	Foreign Priority Date	NONE
Word Mark	COUNTRY BUFFET		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1992/11/00 First Use In Commerce: 1992/11/00 Restaurant services

U.S. Registration No.	2149716	Application Date	04/12/1996
Registration Date	04/07/1998	Foreign Priority Date	NONE
Word Mark	OLD COUNTRY BUFFET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1996/09/00 First Use In Commerce: 1996/09/00 restaurant services		

U.S. Registration No.	2051197	Application Date	09/16/1994
Registration Date	04/08/1997	Foreign Priority Date	NONE
Word Mark	OLD COUNTRY BUFFET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1994/11/00 First Use In Commerce: 1994/11/00 restaurant services		

U.S. Registration No.	2051196	Application Date	09/16/1994
Registration Date	04/08/1997	Foreign Priority Date	NONE
Word Mark	OLD COUNTRY BUFFET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1994/11/00 First Use In Commerce: 1994/11/00 restaurant services		

U.S. Registration No.	2048119	Application Date	09/16/1994
Registration Date	03/25/1997	Foreign Priority Date	NONE
Word Mark	OLD COUNTRY BUFFET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1994/11/00 First Use In Commerce: 1994/11/00 restaurant services		

U.S. Registration No.	1423419	Application Date	04/11/1986
Registration Date	12/30/1986	Foreign Priority Date	NONE
Word Mark	OLD COUNTRY BUFFET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1984/03/21 First Use In Commerce: 1984/03/21 RESTAURANT SERVICES		

U.S. Registration No.	1343558	Application Date	07/11/1984
Registration Date	06/18/1985	Foreign Priority Date	NONE
Word Mark	OLD COUNTRY BUFFET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1984/03/21 First Use In Commerce: 1984/03/21 RESTAURANT SERVICES		

Attachments	NOA Buffets JJ North.pdf(18144 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ryan R. Palmer/
Name	Ryan R. Palmer
Date	09/24/2013

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

Buffets, Inc.,  
Opposer,

v.

Starts CC, Inc.,  
Applicant.

) Serial No. 85802394  
) Mark: J.J. NORTH'S COUNTRY BUFFET  
) Opposition No. \_\_\_\_\_

) Publication Date: May 28, 2013

) **OPPOSER BUFFETS, INC.'S**  
) **NOTICE OF OPPOSITION**

In the matter of Application Serial Number 85802394 filed on December 13, 2012 and published in the Official Gazette on May 28, 2013 (the "Starts Application") by Starts CC, Inc. ("Starts" or "Applicant"), Opposer Buffets, Inc. ("Opposer"), 1020 Discovery Road, Eagan, Minnesota 55121, believes that it would be damaged by the registration of the mark in International Class 43 as shown in the Starts Application and therefore opposes registration of the Starts Application in International Class 43 on the following grounds:

1. Opposer is the operator of various restaurant businesses operated in the United States under the names COUNTRY BUFFET, OLD COUNTRY BUFFET, and related marks.
2. Opposer is the owner of trademark rights in the mark COUNTRY BUFFET and OLD COUNTRY BUFFET for restaurant services ("Opposer's Service Marks").
3. Opposer is the owner of the following United States Trademark Registrations for Opposer's Service Marks:

<b>Registration Number</b>	<b>Filing Date</b>	<b>Mark</b>
2987516	June 11, 2004	COUNTRY BUFFET
2149716	April 12, 1996	OLD COUNTRY BUFFET
2051197	September 16, 1994	OLD COUNTRY BUFFET
2051196	September 16, 1994	OLD COUNTRY BUFFET
2048119	September 16, 1994	OLD COUNTRY BUFFET
1423419	April 11, 1986	OLD COUNTRY BUFFET
1343558	July 11, 1984	OLD COUNTRY BUFFET

4. Opposer's first use and first use in commerce of its OLD COUNTRY BUFFET mark was at least as early as March 21, 1984, and Opposer's first use and first use in commerce of its COUNTRY BUFFET mark was at least as early as November 1992.

5. Opposer has expended substantial resources since at least as early as March 21, 1984 in advertising, promoting and popularizing Opposer's OLD COUNTRY BUFFET mark and in establishing and preserving the goodwill associated with Opposer's Service Marks.

6. Opposer has expended substantial resources since at least as early as November 1992 in advertising, promoting and popularizing Opposer's COUNTRY BUFFET mark and in establishing and preserving the goodwill associated with Opposer's Service Marks.

7. As a result of Opposer's longstanding and widespread use and registration of Opposer's Service Marks and its other related trademarks, these marks identify and distinguish the restaurant services and related products and services offered by Opposer.

8. Applicant filed the Starts Application on December 13, 2012 seeking registration of the mark J.J. NORTH'S COUNTRY BUFFET (the "Starts Mark").

9. The Starts Application requests registration of the Starts Mark for services in International Class 43 identified as restaurant services.

10. The Starts Application was published in the Official Gazette of the United States Patent and Trademark Office on May 28, 2013.

11. Opposer established lawful use of Opposer's Service Marks for services in International Class 43 in commerce prior to the filing date of the Starts Application.

12. The Starts Mark as applied to services in International Class 43 is confusingly similar to Opposer's Service Marks in appearance, sound and meaning.

13. The International Class 43 services identified in the Starts Application are closely related to the services sold by Opposer under Opposer's Service Marks.

14. Applicant's application to register the Starts Mark is without the consent of Opposer.

15. The Starts Mark, as used for the International Class 43 services identified in the Starts Application, so resembles Opposer's Service Marks as to be likely to cause confusion, to cause mistake, or to deceive with respect to the source or origin of Applicant's services in International Class 43, with respect to Opposer's sponsorship thereof or affiliation or connection therewith, and/or in other ways, with resulting damage to Opposer and to the goodwill associated with Opposer's Service Marks.

16. The Starts Mark falsely suggests the existence of a connection, sponsorship or affiliation between Applicant's services in International Class 43 and the services provided by Opposer.

17. Opposer would be damaged by registration of the Starts Mark in International Class 43 in that such registration would be in derogation of Opposer's rights under the trademark laws of the United States.

WHEREFORE, Opposer prays that this Opposition be sustained and that the Starts Application be denied registration in International Class 43.

Dated this 24<sup>th</sup> day of September, 2013.

Respectfully submitted,

MONROE MOXNESS BERG PA

By /Ryan R. Palmer/

Ryan R. Palmer (MN Bar No. 0340650)  
Attorneys for Opposer  
8000 Norman Center Drive, Suite 1000  
Minneapolis, MN 55437  
Tel: (952) 885-4386  
Fax: (952) 885-5969  
[rpalmer@mmbllawfirm.com](mailto:rpalmer@mmbllawfirm.com)

**CERTIFICATE OF SERVICE AND MAILING**

I hereby certify that a copy of this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Starts CC, Inc., 1312 Scottsdale Road, Scottsdale, AZ 85257, on the date indicated below.

I hereby certify that a copy of this paper has been furnished to Commissioner of Trademarks, P.O. Box 1451, Arlington, VA 22313, via electronic service, on the date indicated below.

Dated: September 24, 2013

/Ryan R. Palmer/  
Ryan R. Palmer

MMB: 4822-7392-4886, V. 2