

I.O.B. Realty, Inc. ("IOB") respectfully submits this reply brief pursuant to the Board's Order dated May 12, 2003.¹

I. Recent Procedural History

On April 25, 2003, in response to an Order to Show Cause, IOB wrote to the Board advising that IOB remained interested in the proceeding, would be appearing pro se and providing a new address for service. These facts were all acknowledged in the Board's subsequent Order of May 12, 2003. Pursuant to this order, IOB and Patsy's Brand were invited to submit briefs within 30 days regarding the effect of the civil judgment upon these consolidated cancellation proceedings. The Order also provided that the "proceeding remain otherwise suspended".

Accordingly, on June 9, 2003, pursuant to the Board's Order, IOB duly filed and served a brief in support of its position that I.O.B's Registration Nos 1,975,110 and 2,213,574 were valid and therefore Patsy's Brand's petition for cancellation of those marks should be dismissed.

Subsequently, IOB received, from its former attorneys (upon whom it was served), a copy of the Board's order dated May 27, 2003, canceling IOB's registration Nos. 1,975,110 and 2,213,574. The May 23 order was contrary to the Board's order of May 12, 2003 (issued approximately two weeks earlier) and the decision of the United States Court of Appeals for the Second Circuit filed January 16, 2003, and modified on March 27, 2003. IOB submits

¹ Patsy's Brand failed to serve IOB with a copy of its brief within 30 days as required by the Board's order of May 12, 2003. Consequently, IOB only received a copy of Patsy's Brand's brief after it requested a copy on or about June 19, 2003.

that there were no grounds for cancellation of its marks in this manner and requests that they be restored to the register immediately.

II. Cancellation No. 28142 re: Registration No. 1,874,789

As stated in IOB's Brief dated June 9, 2003, IOB respectfully withdraws its petition for cancellation of Patsy's Brand, Inc.'s ("Patsy's Brand") mark "Patsy's PR since 1944".

III. Cancellation No. 29614 re: Registration Nos. 1,975,110 and 2,213,574

The Second Circuit determined that IOB's marks are valid and that:

1. IOB is permitted to use "Patsy's" for restaurant service (Exhibit A to IOB's brief dated June 9, 2003, at 25-26);
2. IOB is permitted to use "Patsy's Pizzeria" for restaurant service, including hot, take-out pizza, and, to a limited extent, for pasta sauce and other food products (Exhibit B and Exhibit A to IOB's brief dated June 9, 2003, at 23-25);
3. The district court erred in requiring cancellation of IOB's registration of "Patsy's" for restaurant services and accordingly that provision of the district court's injunction was deleted by the Court of Appeals (Exhibit A to IOB's brief dated June 9, 2003, at 26).

Patsy's Brand argued in its brief that IOB has misrepresented the Second Circuit's decision. It fails, however, to cite to anything in the court's decision that states differently. Furthermore, the fact that IOB does not have the exclusive rights to the name "Patsy's" for restaurant services, is of no consequence to the registration, as implicitly acknowledged by the Second Circuit's decision.

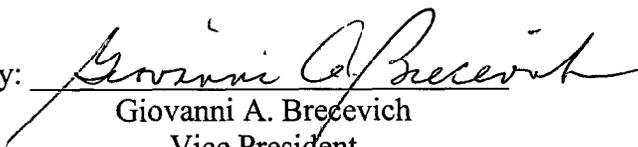
IV. Conclusion

Consistent with the Second Circuit's decision, IOB's Registration Nos. 1,975,110 and 2,213,574 are valid and should be promptly restored to the register, and Patsy's Brand's petition for cancellation of those marks should be dismissed.

Dated: New York, New York
June 24, 2003

Respectfully Submitted,

I.O.B REALTY, INC.

By: 
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CERTIFICATE OF MAILING AND SERVICE

I hereby certify that on June 24, 2003, this memorandum is being deposited with the United States Postal Service with sufficient postage as first-class mail in envelopes addressed to:

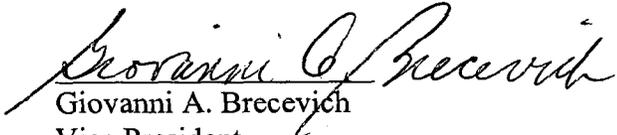
Assistant Commissioner For Trademarks
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- and -

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Dated: June 24, 2003


Giovanni A. Breceovich
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