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

Proceeding	92053501
Party	Defendant DEL TACO, LLC
Correspondence Address	DEL TACO LLC 25521 COMMERCENTRE DRIVE LAKE FOREST, CA 92630 UNITED STATES
Submission	Answer
Filer's Name	April L Besl
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Date	02/22/2011
Attachments	Answer to Petition.pdf (3 pages)(88205 bytes)

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

CHRISTIAN M. ZIEBARTH,

Petitioner,

vs.

DEL TACO LLC

Respondent.

Reg. No. 1,043,729

Opposition No. 92053501

ANSWER TO PETITION OF CANCELLATION

Respondent, Del Taco LLC (“Del Taco”), a California limited liability company with its principal place of business in Lake Forest, California, is the owner of the mark NAUGLES in Class 35 for “Restaurant Services.” The registration was obtained on July 13, 1976 and assigned Registration No. 1,043,729. Del Taco now answers as follows:

1. Del Taco is without sufficient knowledge to determine the truth or falsity of the facts alleged in Paragraph 1 and therefore denies the same.
2. Del Taco admits that an Office Action has been issued against Application Serial No. 85/040,746 under Trademark Act Section 2(d), 15 U.S.C. § 1052(d) for a likelihood of confusion with Registration No. 1,043,729 owned by Del Taco. Del Taco denies the remaining allegations contained in Paragraph 2.
3. Del Taco states that the records of the United States Patent and Trademark Office speak for themselves and that it is the owner of Registration No. 1,043,729. Del Taco denies the remaining allegations contained in Paragraph 3.
4. Del Taco denies each and every allegation contained in Paragraph 4.
5. Del Taco denies each and every allegation contained in Paragraph 5.

6. Del Taco denies each and every allegation contained in Paragraph 6.
7. Del Taco denies each and every allegation contained in Paragraph 7.
8. Del Taco states that the records of the United States Patent and Trademark Office speak for themselves. Del Taco denies the remaining allegations in Paragraph 8.
9. Del Taco states that the records of the United States Patent and Trademark Office speak for themselves. Del Taco denies the remaining allegations in Paragraph 9.
10. Del Taco denies each and every allegation in Paragraph 10.
11. Del Taco denies each and every allegation in Paragraph 11.

AFFIRMATIVE DEFENSES

Respondent Del Taco LLC states as follows for its affirmative defenses:

First Affirmative Defense

1. Petitioner fails to state a claim upon which relief can be granted.
2. Del Taco reserves the right to amend its Answer to assert additional defenses that may become applicable as a result of discovery and further investigation.

PRAYER FOR RELIEF

WHEREFORE, Del Taco LLC, prays:

- A. That this action be dismissed in its entirety with prejudice;
- B. That Respondent Del Taco LLC have such other and further relief as the Board may deem just and proper.

Dated: February 22, 2011



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Del Taco LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by first class mail, postage prepaid, on this 22nd day of February, 2011, to Susan M. Natland, Knobbe Martens Olson & Bear LLP, 2040 Main Street, 14th Floor, Irvine, California 92614.



April L Besl