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

Proceeding	92053617
Party	Defendant Battat Incorporated
Correspondence Address	Battat Incorporated 44 Martina Circle Plattsburgh, NY 12901 UNITED STATES
Submission	Answer
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Date	03/22/2011
Attachments	Battat Answer.PDF (3 pages)(93801 bytes)

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

In the Matter of Trademark Registration No. 3166567
for the mark B CUTE

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BLUE BOX TOY FACTORY, LTD.,	:	
	:	Cancellation No. 92053617
Petitioner,	:	
	:	
v.	:	
	:	
BATTAT INCORPORATED,	:	
	:	
Respondent.	:	

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ANSWER

Respondent Battat Incorporated (“Battat”) by its attorneys, Pryor Cashman LLP, as and for its Answer to the Petition for Cancellation (“Petition”) filed by Petitioner Blue Box Toy Factory, Ltd. (“Blue Box”), denies that Blue Box will be damaged by the continued registration of Battat’s Registration for the mark B CUTE (“Mark”) as set forth in U.S. Trademark Registration No. 3166567 (“Registration”). With respect to the specific assertions set forth in the Petition, Battat hereby alleges and states that it:

1. Denies each and every allegation set forth in Paragraph 1 of the Petition.
2. Denies the allegations set forth in Paragraph 2 of the Petition except admits that Respondent sued Petitioner for trademark infringement and related causes of action based upon, inter alia, its rights in the Registration.
3. Denies that the Petition should be sustained and the Registration cancelled.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. Blue Box has failed to state any claim(s) upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

5. Blue Box lacks standing to bring this Petition.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

6. Battat's Registration is valid and subsisting.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

7. Battat has not abandoned its Mark, which has been used in commerce and is still in use in commerce.

AS AND FOR AN FIFTH AFFIRMATIVE DEFENSE

8. Any claims which Blue Box may have had are barred by the equitable doctrines of laches, estoppel, acquiescence and/or waiver.

AS AND FOR AN FIFTH AFFIRMATIVE DEFENSE

9. Battat presently has insufficient knowledge or information upon which to form a belief as to whether it has additional, as yet unstated, affirmative defenses available. Battat reserves the right to assert additional affirmative defenses for which it has developed factual support pending the outcome of discovery or otherwise.

WHEREFORE, Battat requests that Blue Box's claims be dismissed in their entirety and that Battat be awarded such other and further relief as may be just and proper.

Dated: New York, New York
March 22, 2011

Respectfully submitted,

By: 

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Attorneys for Respondent, Battat Inc.

CERTIFICATE OF SERVICE

I certify that on March 22, 2011, a true and correct copy of the foregoing Answer To Petition for Cancellation: (a) is being filed electronically through ESTTA with the Trademark Trial and Appeal Board, United States Patent and Trademark Office, Alexandria, VA 22313-1451; and (b) was mailed by first class mail, postage prepaid, and a copy was sent via electronic mail to counsel for Petitioner, Peter S. Sloane, Esq., Leason Ellis LLP., 81 Main Street, Suite 503, White Plains, NY 10601.

Moira Shine

MOIRA SHINE