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

Proceeding	94002494
Party	Registrant Sports Entertainment, Inc. d/b/a Ivar's Sports Bar and Grill
Correspondence Address	SPORTS ENTERTAINMENT INC DBA IVAR'S SPORTS BAR AND GRILL 2954 PERKINS RD BATON ROUGE, LA 70808 UNITED STATES
Submission	Answer to Counterclaim
Filer's Name	Raymond R. Ferrera
Filer's e-mail	trademarks@arlaw.com
Signature	/Raymond R. Ferrera/
Date	04/21/2011
Attachments	Sports Entertainement - Answer.pdf (5 pages)(36143 bytes)

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

In the matter of: Trademark Application Serial No. 76/644,412
Filing Date: August 8, 2005
Mark: WHERE THE BEAUTIFUL PEOPLE COME TO GET UGLY
Applicant: The Dream Team, LLC

THE DREAM TEAM, LLC
Applicant

V.

CONCURRENT USE NO.: 94002494

SPORTS ENTERTAINMENT, INC.
D/B/A
IVAR'S SPORTS BAR AND GRILL
Defendant

**DEFENDANT'S ANSWER TO ALLEGATIONS IN
CONCURRENT USE PROCEEDING**

Now comes Sports Entertainment, Inc. d/b/a Ivar's Sports Bar and Grill ("Defendant") and for its Answer to Allegations in Concurrent Use Proceeding states as follows:

1. Reference is hereby made to the allegations relating to concurrent use recited in The Dream Team, LLC's (the "Applicant") concurrent use application Serial No. 76/644,412 (the "Application"). Said allegations are set forth in numbered paragraphs below and immediately followed by Defendant's answer thereto.

2. "Applicant claims exclusive right to use the mark in the area comprising the entire United States except for the State of Louisiana."

Defendant answers as follows:

(a) Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations pertaining to Applicant's claim that it is permitted to use its mark throughout the United States in connection with the services recited, and leaves Applicant to its proof thereof.

(b) Defendant denies that the geographic claim made by Applicant, in the absence of further exceptions, conditions and limitations as to the mode or place of use of the mark, is sufficient to prevent a likelihood of confusion, mistake, or deception resulting from the continued use by Applicant of its mark and the use by Defendant of its prior-adopted and registered trademark.

3. Applicant alleges that “[t]he mark [WHERE THE BEAUTIFUL PEOPLE COME TO GET UGLY] was first used anywhere in connection with the services at [sic] least as early as May 15, 2002, and was first used in connection with the services in interstate commerce at least as early as May 15, 2002.”

Defendant answers as follows: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations pertaining to Applicant’s claim that it first used the mark WHERE THE BEAUTIFUL PEOPLE COME TO GET UGLY in connection with the services identified in the application anywhere and in interstate commerce at least as early as May 15, 2002.

4. Applicant alleges that “[t]he following is an exception to Applicant’s right to exclusive use of the mark: Sports Entertainment, Inc., doing business at 2954 Perkins Rd. Baton Rouge, LA 70808, who on October 10, 2003, applied to have the mark WHERE BEAUTIFUL PEOPLE COME TO GET UGLY registered on the United States Patent and Trademark Office’s Principal Register, and who, on April 19, 2005, was subsequently issued U.S. Trademark Reg. No. 2,941,226.”

Defendant answers as follows:

(a) Defendant denies that it is merely an exception to Applicant’s right to exclusive use of the mark WHERE THE BEAUTIFUL PEOPLE COME TO GET UGLY, but avers that Defendant is a complete bar to Applicant’s right to use the mark WHERE THE

BEAUTIFUL PEOPLE COME TO GET UGLY in connection with restaurant and bar services anywhere in the United States.

(b) Defendant admits its company name and address.

(c) Defendant admits that on October 10, 2003 it filed a U.S. trademark application for registration of the mark WHERE BEAUTIFUL PEOPLE COME TO GET UGLY on the United States Patent and Trademark Office's Principal Register.

(d) Defendant admits that on April 19, 2005 it was issued U.S. Trademark Registration No. 2,941,226 for the mark WHERE BEAUTIFUL PEOPLE COME TO GET UGLY.

5. Applicant alleges that "Sports Entertainment, Inc. registered the mark WHERE BEAUTIFUL PEOPLE COME TO GET UGLY in International Class 25 for T-shirts and International Class 43 for restaurant services."

Defendant answers as follows: Defendant admits that it received a U.S. Trademark Registration for the mark WHERE BEAUTIFUL PEOPLE COME TO GET UGLY in connection with T-shirts in International Class 025 and restaurant services in International Class 043.

6. Applicant alleges that "[u]pon information and belief, Sports Entertainment, Inc. has been using the mark since 1991."

Defendant answers as follows: Defendant admits that it has used the mark WHERE BEAUTIFUL PEOPLE COME TO GET UGLY since at least as early as 1991.

7. Applicant has identified “restaurant and bar services” as the description of services in the Application.

Defendant answers as follows: Defendant admits that the Application identifies “restaurant and bar services;” however, denies that the Applicant’s identified services will not create a likelihood of confusion, mistake, or deception as to the restaurant services provided by Defendant under its prior adopted and used registered trademark.

AFFIRMATIVE DEFENSE

8. Defendant’s U.S. Trademark Registration No. 2,941,226 for the mark WHERE BEAUTIFUL PEOPLE COME TO GET UGLY is incontestable under 15 U.S.C § 1065 and, therefore, a registration, if any, granted to Applicant should be restricted to the geographical area of Applicant’s actual use of the mark WHERE THE BEAUTIFUL PEOPLE COME TO GET UGLY occurring prior to actual notice or constructive notice of Defendant’s trademark rights.

RELIEF REQUESTED

9. Defendant requests that the Trademark Trial and Appeal Board (the “Board”) render judgment denying registration of the Application and dismissing this Concurrent Use Proceeding with prejudice.

10. In the alternative, in the event the Board determines that Applicant is entitled to a concurrent use registration, Defendant requests that the Board render judgment granting registration of the Application as a concurrent use registration with a geographical restriction limited to the city limits of Miami, Florida so as to assure that confusion, mistake, or deception is not likely to result from Applicant’s concurrent use.

Respectfully submitted,

ADAMS AND REESE, LLP

/Raymond R. Ferrera/

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CERTIFICATE OF SERVICE (pursuant to 37 C.F.R § 2.119)

I hereby certify that a copy of the foregoing ANSWER was transmitted by U. S. Postal service first-class mail, postage prepaid, on this 21st day of April, 2011 to Applicant at the following address recited in the Notice of Concurrent Use Proceedings:

The Dream Team, LLC
1216 Washington Avenue
Miami Beach, Florida 33139

/Stephen R. Lewis/
Stephen R. Lewis