

ESTTA Tracking number: **ESTTA35008**

Filing date: **06/07/2005**

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

<b>Proceeding</b>	91165035
<b>Party</b>	Defendant Build-A-Bear Retail Management, Inc. Build-A-Bear Retail Management, Inc. 1954 Innerbelt Business Center Drive St. Louis, MO 631145760
<b>Correspondence Address</b>	BUILD-A-BEAR RETAIL MANAGEMENT, INC. 1954 INNERBELT BUSINESS CENTER DR SAINT LOUIS, MO 63114-5760
<b>Submission</b>	Answer
<b>Filer's Name</b>	Gary A. Pierson II
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<b>Signature</b>	/Gary A. Pierson II/
<b>Date</b>	06/07/2005
<b>Attachments</b>	Answer.pdf ( 3 pages )

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on June 7, 2005.

/s/ Gary A. Pierson II

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

In the Matter of Application Serial No. 78/433,579  
Mark: STUFF FOR STUFF  
Filing Date: June 10, 2004

CALIFORNIA CLOSET COMPANY,	)	
INC.	)	
	)	
Opposer,	)	Opposition No. 91,165,035
	)	
v.	)	
	)	
BUILD-A-BEAR RETAIL	)	
MANAGEMENT, INC.	)	
	)	
Applicant.	)	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

COMES NOW Build-A-Bear Retail Management, Inc. (hereinafter referred to as “Applicant”), through its attorneys, and for its answer to California Closet Company, Inc.’s (hereinafter referred to as “Opposer”) Notice of Opposition states as follows:

1. Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 and accordingly denies same.
2. Applicant is without information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 2 and accordingly denies same.
3. To the extent the allegations of paragraph 3 constitute a legal conclusion, those allegations are inappropriate and do not compel a response. To the extent an answer is required, Applicant is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 and accordingly denies same. Applicant further states that Registration No.

2,793,626 speaks for itself as to its terms and contents. All allegations not specifically admitted are denied.

4. Applicant admits the allegations of paragraph 4. Further, Applicant is the owner of numerous other U.S. Trademark Registrations, including No. 2,455,943 for LOVE STUFF HEADQUARTERS, first used in commerce on January 20, 1999, No. 2,489,096 for STUFFED WITH HUGS AND GOOD WISHES, first used in commerce on April 1, 2000, No. 2,510,460 for LOVE IS THE STUFF INSIDE, first used in commerce on January 15, 2001, No. 2,652,188 for FLUFFIT AND STUFFIT, first used in commerce on April 1, 2002, No. 2,800,447 for STUFFITERIA, first used in commerce on August 24, 1998, No. 2,843,811 for COMFY STUFF FUR-NITURE, first used in commerce on July 1, 2001, No. 2,789,714 for COMFY STUFF CARRIER, first used in commerce on July 1, 2001, and No. 2,923,018 for STUFF FOR STUFF, first used in commerce on March 15, 2004.

5. Applicant denies the allegations of paragraph 5.

6. Applicant denies the allegations of paragraph 6.

7. Applicant denies the allegations of paragraph 7.

8. Applicant denies the allegations of paragraph 8.

#### FURTHER ANSWER AND AFFIRMATIVE DEFENSES

1. Opposer's Notice of Opposition fails to state a claim upon which relief might be granted.

2. Opposer's opposition to Applicant's registration of the mark is barred by the doctrines of unclean hands, waiver, estoppel, acquiescence, ratification, abandonment and laches.

3. Applicant's use or registration of the mark at issue, as specified in the Application, will not result in any confusion or likelihood of confusion to the detriment of Opposer.

4. Opposer will not be damaged as a result of Applicant's registration of the mark as specified in the Application.

WHEREFORE, Applicant requests that the Board dismiss Opposer's Opposition, that a federal trademark registration be issued for Applicant's Application No. 78/433,579 for the subject Mark and that the Board grant Applicant such other and further relief as deemed just and proper under the circumstances of this case.

BLACKWELL SANDERS PEPER MARTIN, LLP

Date: June 7, 2005

By: /s/ Gary A. Pierson II

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*Attorneys for  
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### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed first class, postage prepaid to Marsha G. Gentner, Jacobson Holman, PLLC, 400 Seventh Street, NW, Washington, DC 20004, on this 7<sup>th</sup> day of June, 2005.

/s/ Gary A. Pierson II