

ESTTA Tracking number: **ESTTA55406**

Filing date: **11/29/2005**

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

<b>Proceeding</b>	91167042
<b>Party</b>	Defendant Big Dog Holdings, Inc. Big Dog Holdings, Inc. 121 Gray Avenue Santa Barbara, CA 93101
<b>Correspondence Address</b>	ANTHONY J WALL BIG DOG HOLDINGS INC 121 GRAY AVE SANTA BARBARA, CA 93101
<b>Submission</b>	Answer
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<b>Date</b>	11/29/2005
<b>Attachments</b>	BigDogAnswerBDHG.pdf ( 4 pages )

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

BIG DOG’S HOSPITALITY GROUP, INC.)	)	Opposition No. 91167042
	)	
OPPOSER,	)	Serial No. 75599164
	)	
v.	)	Mark: BIG DOGS
	)	
BIG DOG HOLDINGS, INC.	)	Application Filing Date: December 3, 1998
	)	
APPLICANT.	)	Publication Date: August 16, 2005
	)	

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**ANSWER TO NOTICE OF OPPOSITION**

Big Dog Holdings, Inc. (“Applicant”), by its attorneys, hereby answers the allegations set forth in the Notice of Opposition filed by Big Dog’s Hospitality Group, Inc. (“Opposer”) on October 14, 2005 as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 1 and, therefore, denies the same.
2. Applicant admits that the trademark office records located online at the USPTO appear to show Opposer as the listed owner of Registration Nos. 2711636, 1850937, and 1761817. Applicant is without knowledge or information sufficient to form a belief as to any other allegations of paragraph 2 and, therefore, denies the same.
3. Applicant admits that the trademark office records located online appear to show Opposer as the listed owner of Registration No. 2711636 which was issued on April 29, 2003. As to the remaining allegations of paragraph 3, Applicant is without knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 3 and, therefore, denies the same.
4. Applicant admits that the trademark office records located online appear to show Opposer as the listed owner of Registration No. 1850937 which was issued on August 23, 1994.

Applicant is without knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 4 and, therefore, denies the same.

5. Applicant admits that the trademark office records located online appear to show Opposer as the listed owner of Registration No. 1761817 which was issued March 30, 1993. As to the remaining allegations of paragraph 5, Applicant is without knowledge or information sufficient to form a belief as to the remaining allegations of paragraph 3 and, therefore, denies the same.

6. Applicant denies that the Application, as filed by Applicant, was for the goods as listed in Paragraph 6. Applicant admits that the goods as currently listed in the published application are those listed in Paragraph 6.

7. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 7 and, therefore, denies the same.

8. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 8 and, therefore, denies the same.

9. Applicant denies the allegations set forth in paragraph 9.

10. Applicant denies the allegations set forth in paragraph 10.

11. Applicant denies the allegations set forth in paragraph 11.

12. Applicant admits that an office action was issued on July 14, 1999, but denies the remaining allegations set forth in paragraph 12.

13. Applicant denies the allegations set forth in paragraph 13.

14. Applicant admits the Application was properly allowed to proceed to publication. Applicant denies the remaining allegations set forth in paragraph 14.

15. Applicant denies the allegations set forth in paragraph 15.

### **AFFIRMATIVE DEFENSES**

As and for separate affirmative defenses to Opposer's Notice of Opposition, Applicant states the following:

16. AS A FIRST AFFIRMATIVE DEFENSE, Opposer fails to state a claim upon which relief may be granted.

17. AS A SECOND AFFIRMATIVE DEFENSE, each of Opposer's claims is barred by the doctrine of laches.

18. AS A THIRD AFFIRMATIVE DEFENSE, each of Opposer's claims is barred by the doctrine of estoppel.

19. AS A FOURTH AFFIRMATIVE DEFENSE, each of Opposer's claims is barred by the doctrine of waiver.

20. AS A FIFTH AFFIRMATIVE DEFENSE, each of Opposer's claims is barred by the doctrine of acquiescence.

WHEREFORE, in view of the foregoing, Applicant contends this Opposition is groundless and baseless in fact; that Opposer has not shown wherein it will be, or is likely to be, damaged by the registration of Applicant's trademark and Applicant prays that the Notice of Opposition be dismissed in its entirety, and that a Notice of Allowance issue to Applicant for the application.

Respectfully submitted,

**BIG DOG HOLDINGS, INC.**

Dated: November 29, 2005

By: \_\_\_\_\_



Kurt Koenig  
KOENIG & ASSOCIATES  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served on November 29, 2005 by first-class mail, postage prepaid, to Opposer's counsel addressed as follows:

Mr. Edward J. Quirk  
Mr. F. Christopher Austin  
Greenberg Traurig  
3773 Howard Hughes Pkwy, Ste. 500 North  
Las Vegas, NV 89109

  
Kurt Koenig

Dated: November 29, 2005

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**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being transmitted by electronic mail to the United States Patent and Trademark Office via ESSTA on the date identified below.

Dated: November 29, 2005

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