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Filing date: **04/05/2007**

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

Proceeding	91175856
Party	Defendant C.B. Fleet Investment Corporation C.B. Fleet Investment Corporation 103 Foulk Road, Suite 202 Wilmington, DE 19803
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Submission	Answer
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Date	04/05/2007
Attachments	Answer.pdf ( 5 pages )(98716 bytes )

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

IN THE MATTER OF U.S. APPLICATION SERIAL NOS. 78/830,805 AND 78,830,826

Marks: PHOSPHO-SODA EZ PREP AND PHOSPHO-SODA EZ-PREP  
Filed: March 13, 2006  
Published: October 31, 2006

E-Z-EM, Inc.,

Opposer,

v.

C.B. Fleet Investment Company,

Applicant.

Opposition No. 91175856

**ANSWER AND AFFIRMATIVE DEFENSES  
TO NOTICE OF OPPOSITION**

Applicant, C.B. Fleet Investment Corporation ("Applicant"), by its attorneys Sheppard Mullin Richter & Hampton LLP, responds to the Notice of Opposition as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth by Opposer in Paragraph 1 of the Notice of Opposition and, therefore, denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth by Opposer in Paragraph 2 of the Notice of Opposition and, therefore, denies the same.

3. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth by Opposer in Paragraph 3 of the Notice of Opposition and, therefore, denies the same.
4. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth by Opposer in Paragraph 4 of the Notice of Opposition and, therefore, denies the same.
5. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth by Opposer in Paragraph 5 of the Notice of Opposition and, therefore, denies the same.
6. Applicant denies the allegations set forth in Paragraph 6 of the Notice of Opposition.
7. Applicant denies the allegations set forth in Paragraph 7 of the Notice of Opposition.
8. Applicant denies the allegations set forth in Paragraph 8 of the Notice of Opposition.
9. Applicant admits the allegations set forth in Paragraph 9 of the Notice of Opposition.
10. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth by Opposer in Paragraph 10 of the Notice of Opposition and, therefore, denies the same.
11. Applicant admits that its marks contain the term EZ but denies the remaining allegations of Paragraph 11 of the Notice of Opposition.
12. Applicant is without knowledge or information sufficient to form a belief as to the allegation set forth by Opposer in Paragraph 12 of the Notice of Opposition and, therefore, denies the same.

13. Applicant is without knowledge or information sufficient to form a belief as to the allegation set forth by Opposer in Paragraph 13 of the Notice of Opposition and, therefore, denies the same.
14. Applicant denies the allegations set forth by Opposer in Paragraph 14 of the Notice of Opposition.
15. Applicant denies the allegations set forth by Opposer in Paragraph 15 of the Notice of Opposition.
16. Applicant denies the allegations set forth by Opposer in Paragraph 16 of the Notice of Opposition.
17. Applicant denies the allegations set forth by Opposer in Paragraph 17 of the Notice of Opposition.

#### **AFFIRMATIVE DEFENSES**

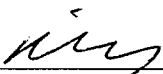
1. The Notice of Opposition fails to state any sustainable grounds on which Application Serial Nos. 78/830,805 and 78/830,826 should be denied and/or claims upon which relief may be granted.
2. Applicant reserves the right to raise additional defenses or counterclaims as may become apparent through discovery and up to the trial.

**PRAYER FOR RELIEF**

WHEREFORE, Applicant C.B. Fleet Company, Incorporated respectfully requests that the captioned Opposition be dismissed, and that a Certificate of Registration be issued to Applicant for Application Serial Nos. 78/830,805 and 78,830,826.

Respectfully submitted,

C.B. FLEET INVESTMENT CORPORATION

By:   
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Attorneys for Applicant

Dated April 5, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES was served on this 5<sup>th</sup> day of April, 2007 via first class mail, postage prepaid and addressed to:

**Lara A. Holzman  
Sarah C. Hsia  
Philippe Bennett  
ALSTON & BIRD LLP  
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