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

Proceeding	91179274
Party	Defendant JD EQUITIES, Corp.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

----- X
GEORGE V RESTAURATION, S.A.

Opposition No. 91179274
Serial Nos. 77094776, 77094755

Plaintiff,

v.

MEMORANDUM OF LAW

JD EQUITIES, CORP.

Defendant

----- X

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO
ACCEPT DEFENDANT'S LATE FILED ANSWER**

PRELIMINARY STATEMENT

Defendant, JD Equities, Corp. (“JD Equities” or “Defendant”), through its attorneys Mound Cotton Wollan & Greengrass, respectfully submits this Memorandum of Law in further support of its motion to accept its late-filed Answer to the Notice of Consolidated Oppositions (“Notice of Opposition”) by Plaintiff, George V Restauration, S.A. (“George V Restauration” or “Plaintiff”), regarding the registration of marks BUDDABAR and NY BUDDAHBAR, Serial Nos. 77094776 and 77094755, respectively. Applicant has good cause for filing a late answer, which is attached hereto as Exhibit 1.

BACKGROUND

JD Equities filed an application to register the marks BUDDABAR and NY BUDDAHBAR for restaurant franchising. The applications were published in the Official Gazette of the United States Patent and Trademark Office (“USPTO”) on August 7, 2007. A notice of opposition to the registration sought was filed on behalf of George V Restauration, S.A. The USPTO Trademark Trial and Appeal Board mailed a letter, dated August 30, 2007, to Alexander Fishkin, Law Offices of A. Fishkin, attorney of record for JD Equities. That letter indicated that an answer was due forty days after the transmission (October 9, 2007).

Mound Cotton Wollan and Greengrass (“MCWG”) was recently assigned as co-counsel in this matter. Upon receiving the file, MCWG took all reasonable steps to respond to the Notice of Opposition as quickly as possible. An immediate examination of the Trademark Trial and Appeal Board Inquiry System showed that no default judgment had been entered and that no notice of default was sent to JD Equities.

ARGUMENT**DEFENDANT'S ANSWER SHOULD BE ACCEPTED BASED ON GOOD CAUSE**

Defendant is entitled to acceptance of its late answer for good cause. The Trademark Trial and Appeal Board and the Commissioner of Patents and Trademarks have both held that the good cause standard of Fed. R. Civ. P. 55(c) is the applicable standard. See Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc., 21 U.S.P.Q.2d 1156, 1991 TTAB LEXIS 45, at * 2 (TTAB 1991) (applying the good cause standard of Fed. R. Civ. P. 55(c) where motion to accept late answer was filed before notice of default was issued); Paolo's Associates Limited Partnership v. Paolo Bodo, 21 U.S.P.Q.2d 1899, 1880 Commr. Pat. LEXIS 26 (Comm'r 1990) (applying the good cause standing of Fed. R. Civ. P. 55(c) and granting respondent's motion that its late-filed answer be accepted).

Good cause is usually found where: (1) the delay in filing is not the result of willful conduct or gross neglect on the part of the defendant, (2) if the delay will not result in substantial prejudice to the plaintiff, and (3) if the defendant has a meritorious defense. See Fred Hayman, 1991 TTAB LEXIS 45, at * 3. Each of these is satisfied here.

1. **The Delay In Filing An Answer Was Not the Result of Willful Conduct Or Gross Negligence On The Part of Defendant**

Defendant's delay in filing an answer to the Notice of Opposition was not the result of willful conduct or gross negligence. On the contrary, Defendant always intended to submit an answer to Plaintiff's Notice of Opposition. Defendant's delay stems from the need to obtain co-counsel to appear on behalf of Defendant to assist in preparation of an answer to the Notice of Opposition on Defendant's behalf. Cf. Fred Hayman, 1991 TTAB LEXIS 45, at * 3 (where failure to timely file an answer was due to attorney inadvertence on part of applicant's counsel and not the result of any willful conduct or gross neglect, the first prong of the good cause

standard was satisfied). Upon receiving the file, MCWG acted reasonably and expeditiously to immediately review the Trademark Trial and Appeal Board Inquiry System and submit an answer shortly thereafter.

2. The Delay Will Not Result In Substantial Prejudice to the Plaintiff

The filing of a late answer in this case will result in minimal prejudice, if any, to the Plaintiff. See Fred Hayman, 1991 TTAB LEXIS 45, at * 3 (finding that a nine day delay in filing of an answer would cause minimal prejudice to the opposer). Moreover, there are currently two actions pending in the Supreme Court of the State of New York, New York County, alleging, among other things, fraud, alleged licensing agreements, and trademark infringement involving Plaintiff's marks. Discovery has not yet been taken in those actions.

3. The Defendant Has a Meritorious Defense

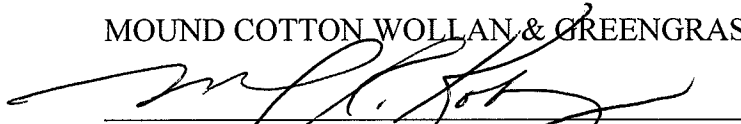
A meritorious defense will be shown where defendant provides a plausible response to the allegations in the complaint. The showing of a meritorious defense does not require an evaluation of the merits of the case. See Trademark Trial and Appeal Board Manual of Procedure (TBMP) at 300-73 - 300-74 (2004). Submission of an answer which is not frivolous is adequate to demonstrate that defendant has a meritorious defense. See Fred Hayman, 1991 TTAB LEXIS 45, at * 3. Here, Defendant has submitted an Answer with this motion (Exhibit 1) demonstrating that it has a strong defense in this opposition proceeding.

CONCLUSION

Defendant has satisfied the applicable standard by demonstrating that it has good cause for filing a late answer. The delay in filing an answer was not the result of willful conduct or gross negligence on the part of Defendant, the delay will not result in substantial prejudice to the Plaintiff, and Defendant has a meritorious defense. Therefore, Defendant respectfully requests that the Trademark Trial and Appeal Board accept its late filed answer.

Dated: New York, New York
October 19, 2007

MOUND COTTON WOLLAN & GREENGRASS



Michael R. Koblenz, Esq.
Co-Counsel for Defendant, JD Equities, Corp.
One Battery Park Plaza
New York, NY 10004-1486
(212) 804-4200

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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GEORGE V RESTAURATION, S.A.

Plaintiff,

v.

JD EQUITIES, CORP.

Defendant
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Opposition No. 91179274
Serial Nos. 77094776, 77094755

EXHIBIT TO
MEMORANDUM OF LAW

EXHIBIT 1

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

----- X
GEORGE V RESTAURATION, S.A.

Opposition No. 91179274
Serial Nos. 77094776, 77094755

Plaintiff,

v.

ANSWER

JD EQUITIES, CORP.

Defendant

----- X

Defendant, JD Equities, Corp. (“JD Equities” or “Applicant”), by and through its attorneys Mound Cotton Wollan & Greengrass, as an for an Answer to the Notice of Consolidated Oppositions (“Notice of Opposition”) by Plaintiff, George V Restauration, S.A. (“George V Restauration” or “Opponent”) regarding the registration of marks BUDDABAR and NY BUDDAHBAR, Serial Nos. 77094776 and 77094755, respectively, alleges upon information and belief as follows:

COUNT ONE

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition, and begs leave to refer all questions of law to the Trademark Trial and Appeal Board (“TTAB”).

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition, and begs leave to refer all questions of law to the TTAB.

4. Denies the allegations contained in paragraph 4 of the Notice of Opposition.
5. Denies the allegations contained in paragraph 5 of the Notice of Opposition.

COUNT TWO

6. Applicant repeats and realleges its responses to the allegations contained in paragraphs 1 through 5 as though fully set forth herein.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Notice of Opposition, and begs leave to refer all questions of law to the TTAB.

8. Denies the allegations contained in paragraph 8 of the Notice of Opposition.
9. Denies the allegations contained in paragraph 9 of the Notice of Opposition.

COUNT THREE

10. Applicant repeats and realleges its responses to the allegations contained in paragraphs 1 through 9 as though fully set forth herein.

11. Denies the allegations contained in paragraph 11 of the Notice of Opposition.
12. Denies the allegations contained in paragraph 12 of the Notice of Opposition.
13. Denies the allegations contained in paragraph 13 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

14. Some or all of the claims alleged in the Notice of Opposition may be barred by the applicable statute of limitations or the equitable doctrines of waiver, estoppel, or laches.

SECOND AFFIRMATIVE DEFENSE

15. Applicant's use of the marks BUDDABAR and/or NY BUDDAHBAR in connection with restaurant services is not likely to cause confusion, mistake or deception in the minds of the public as to the source of origin of Applicant's services.

THIRD AFFIRMATIVE DEFENSE

16. Opponent is a foreign corporation that is not authorized to do business in New York.

FOURTH AFFIRMATIVE DEFENSE

17. There is an action pending in the Supreme Court of the State of New York, New York County, entitled Little Rest Twelve, Inc. and ImedInvest Partners¹ v. Raymond Visan, et al. (Index No. 600676/2007) (filed on March 5, 2007) alleging, inter alia, fraud, breach of contract, conversion, tortuous interference with a contractual relationship, unjust enrichment, and constructive trust. George V Restauration, S.A. is a named defendant in that action. There are serious questions of fact with respect to an alleged agreement between Little Rest Twelve, Inc. and the Opponent herein, and discovery has not yet been taken.

¹ JD Equities t/a ImedInvest Partners is the parent company of Little Rest Twelve, Inc.

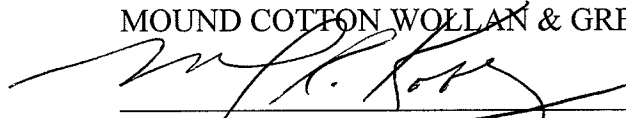
FIFTH AFFIRMATIVE DEFENSE

18. There is a second action pending in the Supreme Court of the State of New York, New York County, entitled George V Restauration S.A. and Creative Design For Restaurants and Bars, Ltd. v. Little Rest Twelve, Inc. (Index No. 602309/07) (filed on July 13, 2007), alleging, inter alia, trademark infringement, unfair competition, trademark dilution, trade dress infringement, breach of trademark license, breach of concept license, and breach of implied covenant of good faith and fair dealing. There are a number of questions of fact with respect to the alleged license agreement at issue in that case involving Opponent's BUDDHA-BAR and BUDDHA BAR marks and actual use of the marks in the United States. Discovery has not yet been taken.

WHEREFORE, Defendant JD Equities, Inc. respectfully requests a judgment dismissing the Notice of Consolidated Oppositions, and for such other and further relief as deemed just and proper.

Dated: New York, New York
October 19, 2007

MOUND COTTON WOLLAN & GREENGRASS



Michael R. Koblenz, Esq.
Co-Counsel for Defendant, JD Equities, Corp.
One Battery Park Plaza
New York, NY 10004-1486
(212) 804-4200

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

DORETTA MARTIN, being duly sworn, deposes and says:

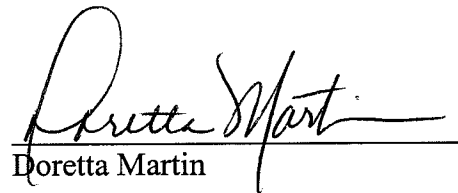
That deponent is not a party to this action, is over the age of 18 years and resides at Queens, New York.

That on October 22, 2007 deponent served the within **NOTICE OF APPEARANCE OF CO-COUNSEL, NOTICE OF PETITION, AFFIRMATION OF MICHAEL R. KOBLENZ, ESQ. and MEMORANDUM OF LAW WITH EXHIBIT** upon:

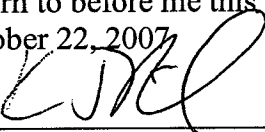
Farhad Novian, Esq.
NOVIAN & NOVIAN LLP
1801 Century Park East, Suite 1201
Los Angeles, CA 90067

Alexander Fishkin, Esq.
LAW OFFICES OF A. FISHKIN
250 West 57th Street, Ste. 717
New York, NY 10107-0716

at the address(es) designated by said attorney(s) for that purpose by depositing the same enclosed in a postpaid properly addressed wrapper directed to each of said attorney(s) at the above address(es) in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.


Doretta Martin

Sworn to before me this
October 22, 2007



NOTARY PUBLIC

KEVIN J. BRASSIL
Notary Public, State of New York
No. 31-5018311
Qualified in New York County
Certificate Filed in New York County
Commission Expires Sept. 27, 2011