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

Proceeding	91186148
Party	Defendant The Great Atlantic & Pacific Tea Company, Inc.
Correspondence Address	ARLANA S COHEN COWAN LIEBOWITZ & LATMAN PC 1133 AVENUE OF THE AMERICAS NEW YORK, NY 10036-6710 UNITED STATES mmh@ccl.com, asc@ccl.com, trademark@ccl.com
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Date	07/26/2012
Attachments	Answer to Publix Amended Notice.pdf (5 pages)(87901 bytes)

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

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	:	
PUBLIX ASSET MANAGEMENT COMPANY,	:	
	:	
Opposer,	:	OPPOSITION NO. 91186148
	:	OPPOSITION NO. 91186863
v.	:	
	:	APPLICANT’S ANSWER TO
THE GREAT ATLANTIC & PACIFIC TEA	:	AMENDED NOTICE OF
COMPANY, INC.,	:	OPPOSITION
	:	
Applicant.	:	
-----	x	

Applicant, The Great Atlantic & Pacific Tea Company, Inc. (“Applicant”), by its undersigned counsel hereby Answers the Amended Notice of Opposition (“Amended Notice”) filed by Opposer, Publix Asset Management Company, (“PAM”), as follows:

In response to the introductory unnumbered paragraph of the Amended Notice, Applicant denies that Opposer is damaged herein.

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 1 of the Amended Notice. Applicant objects to the collective use of the term “Publix” therein and throughout the Amended Notice as Publix Super Markets, Inc. did not file any extensions to oppose, has not opposed, and thus has no standing herein.

2. Applicant admits the allegations set forth in paragraph 2 of the Amended Notice.

3. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 3 of the Amended Notice.

4. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 4 of the Amended Notice.

5. Applicant admits Opposer PAM owns the registrations listed in paragraph 6 however, Applicant is without information sufficient to form a belief as to the validity of the registrations, or the dates of first use set forth therein or as set forth in paragraph 5 of the Amended Notice.

6. Applicant denies that the ownership of registrations and/or applications is evidence of use and denies any allegations to the extent they are made by any party other than Opposer PAM. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 6 of the Amended Notice.

7. Applicant denies that the ownership of registrations and/or applications is evidence of use and denies any allegations to the extent they are made by any party other than Opposer PAM. Without waiving the foregoing, Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 7 of the Amended Notice.

8. Applicant admits the allegations set forth in paragraph 8 of the Amended Notice.

9. Applicant admits the allegations set forth in paragraph 9 of the Amended Notice.

10. Applicant fails to comprehend the citation from 1972 in its Amended Notice nor any other inference or allegations raised in paragraph 10 of the Amended Notice. Without waiving the foregoing, Applicant admits it intends to use the mark applied for herein on the goods set forth in the Application.

11. Applicant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 11 of the Amended Notice.

12. Applicant admits the allegations set forth in paragraph 12 of the Amended Notice.

13. Applicant admits the allegations set forth in paragraph 13 of the Amended Notice.

14. Applicant admits the products set forth in its Application could be sold in supermarkets. Applicant also objects to any allegations made on behalf of Publix Super Markets, Inc., who has not filed an opposition herein.

15. Applicant admits the allegations set forth in paragraph 15 of the Amended Notice.

16. Applicant denies the allegations set forth in paragraph 16 of the Amended Notice.

17. Applicant denies the allegations set forth in paragraph 17 of the Amended Notice.

18. Applicant denies the allegations set forth in paragraph 18 of the Amended Notice.

19. Applicant denies the allegations set forth in paragraph 19 of the Amended Notice and particularly Applicant objects to any allegations made on behalf of Publix Super Markets, Inc., who has not filed an opposition herein.

20. Applicant denies the allegations set forth in paragraph 20 of the Amended Notice and particularly Applicant objects to any allegations made on behalf of Publix Super Markets, Inc., who has not filed an opposition herein.

21. Applicant denies the allegations set forth in paragraph 21 of the Amended Notice.

22. Applicant denies the allegations set forth in paragraph 22 of the Amended Notice.

23. Applicant denies the allegations set forth in paragraph 23 of the Amended Notice.

24. Applicant denies the allegations set forth in paragraph 24 of the Amended Notice.

AFFIRMATIVE DEFENSES

1. There is no likelihood of confusion herein.

2. Opposer fails to state a valid claim in its Amended Notice.

3. The Opposition is barred by unclean hands.

4. The Opposition is barred by naked license and/or assignment.

5. The Opposition is barred by waiver.

6. Opposer does not have standing.
7. Publix Super Markets, Inc. does not have standing herein.
8. Opposer's marks are not famous and were not famous before Applicant's filing date.
9. Opposer has failed to make a claim for dilution.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed in its entirety.

Dated: New York, New York
July 26, 2012

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 26, 2012 she caused a true copy of **Applicant's Answer to Amended Notice of Opposition** to be served by mailing a true and correct copy thereof to Opposer's attorneys to:

James B. Lake, Esq.
Thomas & LoCicero, PL
400 N. Ashley Drive, Suite 1100
Tampa, FL 33602

/Michael G. Gabriel/
Michael G. Gabriel