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

Proceeding	91186874
Party	Defendant Genting International Management Limited
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Date	11/17/2008
Attachments	Awana v. Genting - Answer.pdf (7 pages)(226815 bytes)

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 1 of the Notice of Opposition, and, therefore, denies the same.

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

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 3 of the Notice of Opposition and, therefore, denies the same.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 4 of the Notice of Opposition and, therefore, denies the same.

5. On information and belief, Applicant admits that Opposer is the record owner of the registrations, and lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 5 of the Notice of Opposition and, therefore, denies the same

6. On information and belief, Applicant admits that a Combined Affidavit of Use and Incontestability under Sections 8 & 15 was filed in connection with Registration No. 1377869, and lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 6 of the Notice of Opposition and, therefore, denies the same.

7. On information and belief, Applicant admits that Opposer is the record owner of the applications recited in paragraph 7 of the Notice of Opposition, but lacks knowledge or information sufficient to form a belief as to the validity of such

marks, or Opposer's ownership or exclusive rights in such marks, or entitlement to registration thereof and, therefore, denies the same.

8. On information and belief, Applicant admits that Opposer is the record owner of the applications recited in paragraph 8 of the Notice of Opposition, but lacks knowledge or information sufficient to form a belief as to the validity of such marks, or Opposer's ownership or exclusive rights in such marks or entitlement to registration thereof and, therefore, denies the same, and lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 8 of the Notice of Opposition and, therefore, denies the same.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 9 of the Notice of Opposition and, therefore, denies the same.

10. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 10 of the Notice of Opposition and, therefore, denies the same.

11. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 11 of the Notice of Opposition and, therefore, denies the same.

12. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 12 of the Notice of Opposition and, therefore, denies the same.

13. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 13 of the Notice of Opposition and, therefore, denies the same.

14. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 14 of the Notice of Opposition and, therefore, denies the same.

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

16. Applicant admits the allegations set forth in paragraph 16 of the Notice of Opposition.

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

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

19. Applicant denies the allegations in paragraph 19 of the Notice of Opposition.

20. Applicant denies the allegations in paragraph 20 of the Notice of Opposition.

In response to Opposer's prayer for relief, Applicant submits that the Opposition should be dismissed in its entirety on the grounds that no likelihood of confusion or dilution will arise from the use or registration of its AWANA HOTELS & RESORTS mark which is the subject of U.S. Application Serial No. 77/304,708.

AFFIRMATIVE DEFENSES

1. The Notice of Opposition fails to state a claim upon which relief can be granted.
2. Applicant's use and registration of the mark AWANA HOTELS & RESORTS on the Principal Register is not likely to cause confusion, mistake, deception or dilution of or otherwise damage Opposer, or Opposer's alleged marks.
3. On information and belief, customers of the parties' respective goods and services are likely to be sufficiently sophisticated and/or discriminating in their purchase of the parties' goods and services as to avoid any likelihood of confusion.
4. On information and belief, Applicant's use and registration of the mark AWANA HOTELS & RESORTS, which is the subject of U.S. Application Serial No. 77/304,708 in connection with its hotel and resort and entertainment related goods and services in Classes 16, 41 and 43, is not likely to cause consumers to believe that Applicant or its services are in some way associated, sponsored or approved by Opposer, because the marks are different and/or distinguishable in overall appearance, pronunciation and commercial impression.
5. On information and belief, the channels of trade for Applicant's hotel and resort and entertainment related goods and services in Classes 16, 41 and 43 offered under the mark AWANA HOTELS & RESORTS, which is the subject of U.S. Application Serial No. 77/304,708, are distinctly different from channels of trade for Opposer's goods and services. As such, there is no likelihood of confusion in the future.
6. On information and belief, Opposer has not suffered and is not likely to suffer any injury or damage as a result of Applicant's use and registration of the mark

AWANA HOTELS & RESORTS, which is the subject of U.S. Application Serial No. 77/304,708.

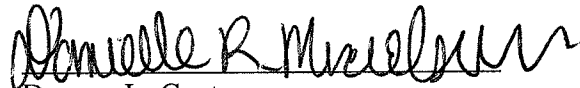
WHEREFORE, Applicant respectfully requests that Opposition No. 91186874 be dismissed in its entirety and that Application Serial No. 77/304,708 for its AWANA HOTELS & RESORTS be approved for registration.

Respectfully submitted,

BAKER BOTTS L.L.P.

Date: November 17, 2008

By:



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, ANSWER AND AFFIRMATIVE DEFENSES, was served on the Attorneys for Opposer via the United States Postal Service as first class mail, in an envelope with sufficient postage addressed to:

David L. Bea, Esq.
David L. Bea & Associates
19 S. LaSalle Street, Suite 1300
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on November 17, 2008

By: 
Danielle R. Mendelsohn