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

Proceeding	91190444
Party	Defendant LTB Operations LC
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Submission	Answer
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Date	02/12/2013
Attachments	Reply to Opposition.pdf ( 3 pages )(33573 bytes )

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

In re Application Serial Nos. 77/510,960 and 77/510,979

Filed: June 30, 2008

For Marks: LIONS & TIGERS & BEERS LTB SPORTS CLUB OH MY! and Design and  
LIONS & TIGERS & BEERS OH MY!

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	:	
DETROIT TIGERS, INC.,	:	
	:	
	:	
v.	:	<b>APPLICANT’S REPLY TO</b>
	:	<b>NOTICE OF OPPOSITION</b>
	:	
LTB OPERATIONS LC,	:	
	:	
	:	Opposition No. 77510979
Applicant.	:	
-----X		

Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

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

Applicant, LTB Operations LC (“Applicant”), by its attorneys, hereby submits its Answer to the Notice of Opposition filed by Opposers, Detroit Tigers, Inc, as follows, with the following numbered Paragraphs corresponding to the numbers of the Paragraphs of the Notice of Opposition:

1. Applicant admits the allegations of Paragraph 1.
2. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 2 and therefore denies the same. Applicant has no knowledge or information regarding Opposer’s use of their marks outside Major League Baseball.
3. Applicant admits the allegations of Paragraph 3.
4. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 4 and therefore denies the same. Applicant has no knowledge or information regarding Opposer’s use of their marks outside Major League Baseball Teams.
5. Applicant admits the allegations of Paragraph 5.

6. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 6 and therefore denies the same. Applicant has no knowledge or information regarding Opposer's use of their marks outside Major League Baseball Teams.

7. Applicant admits the allegations of Paragraph 7.

8. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 8 and therefore denies the same. Applicant has no knowledge or information regarding Opposer's use of their marks outside Major League Baseball Teams.

9. Applicant admits the allegations of Paragraph 9.

10. Applicant admits the allegations of Paragraph 10.

11. Applicant admits the allegations of Paragraph 11 to the extent they are directed towards factual rather than subjective comparisons.

12. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 2 and therefore denies the same.

13. Applicant denies the allegations contained in Paragraph 13.

14. Applicant denies the allegations contained in Paragraph 14.

15. Applicant denies the allegations contained in Paragraph 15.

16. Applicant denies the allegations contained in Paragraph 16.

17. Applicant denies the allegations contained in Paragraph 17.

18. Applicant denies the allegations contained in Paragraph 18.

And for Affirmative Defenses, Applicant states as follows:

#### FIRST AFFIRMATIVE DEFENSE

As and for a First Affirmative Defense, Applicant states that Opposer's has abandoned any right to enforce its rights to the use of Tiger or Tigers in relation to restaurant or bars. The USPTO lists at least 15 live marks utilizing Tiger in their name and directed towards restaurant services. A google list of "Tiger Bar" returns over 84 million hits and lists restaurants and bars across the country. Even more tellingly, virtually every state in the nation has either a high school or a university that utilizes the term "Tigers" with relation to sporting events, teams, uniforms, and other goods and services. To the extent the Opposer asserts rights to exclusive use of the term Tigers across the goods and services directed towards clothing and restaurants and

bars, the lack of enforcement of their marks against these sources should find them abandoned and enforcement should be denied.

### SECOND AFFIRMATIVE DEFENSE

The word "TIGERS" is so diluted even with regard to sports, and especially to restaurants and bars, that no single entity should have exclusive rights to the word, especially when used in combination with terms that clearly refer to well known quotes entirely unassociated with the Detroit Tigers as are Applicant's marks. It is inconceivable that the general public would assume a restaurant named "Lions, Tigers, and Beers, Oh My!" would be associated with the Detroit Tigers any more than they would assume it was owned by Natalie Wood.

### THIRD AFFIRMATIVE DEFENSE

The term "TIGERS" in relation to restaurants and bars has become generic. The term is utilized across the country and only has context when taken in combination with additional terms such as "DETROIT TIGERS". The use of it with other terms not associated with Major League Baseball fails to draw any inference whatsoever. The use with the terms "Lions, Tigers, and Beers, Oh My!" may draw an inference from the consumer but it certainly won't draw an association of being source identified as from Major League Baseball.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be rejected and that the Applicant's mark be allowed to proceed to registration.

Respectfully submitted,  
Donohue Patent Consulting  
*Attorneys for Applicant*  
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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on February 12, 2013, I caused a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION WITH AFFIRMATIVE DEFENSES to be served via First Class Mail, postage prepaid, upon Attorney of Record, Maryann E. Licciardi, COWAN, LIEBOWITZ & LATMAN, P.C. 1133 Avenue of the Americas, New York, New York, 10036.

Dated: Haverford, PA  
February 12, 2013  
/Thomas Donohue/