

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Trademark Trial and Appeal Board

Cheeseburger Restaurants, Inc, et al. )  
 )  
 Opposer, )  
 )  
 v. )  
 )  
 Pfoodman Holdings LLC, )  
 )  
 Applicant. )  
 \_\_\_\_\_ )

Opp. No. 91200813

*76/703,052*

Assistant Commissioner for Trademarks  
 P.O. Box 1451  
 Alexandria, VA 22313-1451

ANSWER TO OPPOSITION

The applicant herein answers the opposition filed against it by the opposer, as follows:

1. Applicant is without sufficient information regarding the allegations of paragraph 1, and therefore denies the same, leaving the Opposer to its proof at the hearing.

2. Applicant notes that the Opposer possesses select service mark registrations, mainly upon CHEESEBURGER + DESIGN, for restaurant and bar services, but other than that, the applicant is without sufficient information regarding the other allegations of paragraph 2, and therefore, denies the same, leaving the Opposer to proof at the hearing.

3. Applicant notes that the Opposer possesses select service mark registrations, mainly upon CHEESEBURGERS + DESIGN, for restaurant and bar services, but other than that, the applicant is without sufficient information



08-30-2011

regarding the other allegations of paragraph 2, and therefore, denies the same, leaving the Opposer to proof at the hearing.

4. Applicant notes that the Opposer possesses select service mark registrations, mainly upon CHEESEBURGERS + DESIGN, for restaurant and bar services, but other than that, the applicant is without sufficient information regarding the other allegations of paragraph 2, and therefore, denies the same, leaving the Opposer to proof at the hearing.

5. Applicant notes that the Opposer possesses select service mark registrations, mainly upon CHEESEBURGERS + DESIGN, for restaurant and bar services, but other than that, the applicant is without sufficient information regarding the other allegations of paragraph 2, and therefore, denies the same, leaving the Opposer to proof at the hearing.

6. Applicant notes that the Opposer possesses select service mark registrations, mainly upon CHEESEBURGERS + DESIGN, for restaurant and bar services, but other than that, the applicant is without sufficient information regarding the other allegations of paragraph 2, and therefore, denies the same, leaving the Opposer to proof at the hearing.

7. Applicant notes that the Opposer possesses select service mark registrations, mainly upon CHEESEBURGERS + DESIGN, for restaurant and bar services, but other than that, the applicant is without sufficient information regarding the other allegations of paragraph 2, and therefore, denies the same, leaving the Opposer to proof at the hearing.

8. Applicant is without sufficient information regarding the status of the variety of listed registrations, and therefore, denies the allegations therein, leaving the Opposer to its proof at the hearing.

9. Applicant denies each and every allegation of paragraph 9.

10. Applicant agrees that if its mark is registered it will provide applicant with the exclusive right to its particular design, but denies that it will conflict with any of the Opposer's registrations, and therefore, denies the allegations of paragraph 10.

11. Applicant is without sufficient information regarding the allegations of paragraph 11, and therefore, denies the same.

12. Applicant is without sufficient information regarding the allegations of paragraph 12, and therefore, denies the same.

13. Applicant denies that Opposer has statutory and common law rights to the word cheeseburger, and applicant does believe that it is entitled to register its own design mark, which does not include the word cheeseburger.

14. Applicant denies each and every allegation of paragraph 14.

15. Applicant denies each and every allegation of paragraph 15.

WHEREFORE, the applicant requests that the relief sought by the Opposer be denied, in full.

**First Affirmative Defense**

16. Applicant denies that its mark is likely to cause confusion, mistake, or deceive the public, or to mislead any consumer to believe that there is an affiliation between Applicant and the Opposer, with respect to their respective services and products, and therefore, requests that the Board upon hearing render a decision accordingly.

**Second Affirmative Defense**

17. Applicant denies that its PARADISE + DESIGN mark, for food court services, is confusingly similar to any cheeseburger mark allegedly used as a service mark by the Opposer.

**Third Affirmative Defense**

18. Applicant denies that its mark as used upon food court restaurant services in schools and catering services can be confused with the marks of Opposer, since Opposer utilizes its mark upon restaurant and bar services, which appears to be in an entirely different channel of trade.

**Fourth Affirmative Defense**

19. Applicant believes that its mark is sufficiently distinct, from any of the marks of the Opposer, such that no likelihood of confusing can prevail in the marketplace.

**Fifth Affirmative Defense**

20. Applicants method of conducting its food court services, or catering service, into educational institutions, is quite distinct from the operations of any restaurant and bar, as performed by the Opposer under its alleged trademarks and service marks, or their designs.

WHEREFORE, the applicant requests this Board to deny all grounds as set forth in this notice of opposition, render a decision against the Opposer, and allow the Applicant's published mark to proceed through to issuance.

PFOODMAN HOLDINGS LLC

By: 

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(314) 872-8136

**CERTIFICATE OF SERVICE**

Applicant herein affirms that it has served its ANSWER TO OPPOSITION upon the Opposer by mailing, postage prepaid, on this 25<sup>th</sup> day of August, 2011, a complete copy of the answer, to the Opposer's attorney Steven J. Nataupsky, Esq., at Knobbe, Martens, Olson & Bear, LLC of Irvine, CA 92614

By: 

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