

ESTTA Tracking number: **ESTTA437328**

Filing date: **10/24/2011**

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

Proceeding	91201617
Party	Defendant Entertainment Publications LLC
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Submission	Answer
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Date	10/24/2011
Attachments	2011-10-24 entmt - tbc - our answer.pdf (3 pages)(25043 bytes)

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

TBC RETAIL GROUP, INC.,

Opposer,

v.

ENTERTAINMENT PUBLICATIONS, LLC,

Applicant.

Opposition No. 91,201,617

Serial Nos. 85/104,744; 85/104,793

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ANSWER AND AFFIRMATIVE DEFENSES TO AMENDED NOTICE OF OPPOSITION

Applicant Entertainment Publications, LLC (“Entertainment Publications”), by its attorneys Honigman Miller Schwartz and Cohn LLP, for its Answer to the Amended Notice of Opposition (“Notice”) filed by Opposer TBC Retail Group, Inc. (“TBC”), says:

1. Entertainment Publications has insufficient information with which to admit or deny this allegation.
- [2.] The Notice contains no Paragraph 2.
- 3-4. Entertainment Publications has insufficient information with which to admit or deny this allegation.
5. Admitted.
- 6-10. Denied.

Wherefore, Entertainment Publications respectfully requests that this Opposition be dismissed with prejudice, that judgment be entered in Entertainment Publications' favor, and that the applications at issue be allowed.

Affirmative Defenses

1. The Notice fails to state a claim on which relief may be granted.
2. There is no likelihood of confusion between the marks for which Entertainment Publications seeks registration (the "Entertainment Marks") and TBC's marks.
3. The Entertainment Marks are materially identical to, and represent the natural expansion of, other marks owned by Entertainment Publications that pre-date the effective date of the TBC Marks.
4. The Entertainment Marks and TBC Marks are used with respect to dissimilar goods and/or services. For example, Entertainment Publications uses its marks on coupons advertising goods and services provided by third parties; TBC uses its marks to advertise goods and services provided by TBC.
5. The Entertainment Marks and TBC Marks are used in dissimilar marketing channels.
6. The TBC Marks are weak, at least with respect to any goods or services unrelated to automobile tires.
7. There has been no actual confusion in the relevant marketplace between the Entertainment Marks and the TBC Marks.
8. Entertainment Publications had no awareness of TBC or of its purported marks when Entertainment Publications selected its marks, and had no intent to copy, mimic, or otherwise trade on the recognition of TBC's purported marks when Oit selected its marks.
9. Entertainment Publications has priority over TBC with respect to the trademarks at issue in this case.
10. These parties' customers use a sufficient degree of care in their purchasing decision as to minimize or eliminate any likelihood of confusion.

11. TBC's purported marks are not famous.

12. TBC has acknowledged the lack of potential confusion between the parties' marks by, among other things, paying to include its own coupons in coupon books published by, and bearing the marks of, Entertainment Publications.

13. Entertainment Publications reserves the right to assert additional Affirmative Defenses as this case progresses.

HONIGMAN MILLER SCHWARTZ AND COHN LLP

Dated: October 24, 2011

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CERTIFICATE OF FILING AND SERVICE

I certify that on October 24, 2011, I filed a copy of the foregoing document with the Board via the ESTTA system, and served a copy on opposing counsel by U.S. Mail at the following address:

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