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

Proceeding	91202422
Party	Defendant Gaylord Entertainment Company
Correspondence Address	ROBERT P. FELBER, JR. WALLER LANSDEN DORTCH & DAVIS, LLP 511 UNION ST STE 2700 NASHVILLE, TN 37219-1791  rfelber@wallerlaw.com
Submission	Answer
Filer's Name	Heather J. Hubbard
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Signature	/Heather J. Hubbard/
Date	12/13/2011
Attachments	Answer to Notice of Opposition.pdf ( 12 pages )(277569 bytes )

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

**In the matter of Application Serial No. 85/364,172  
YUM! Y'ALL (standard characters)**

<b>RED ROBIN INTERNATIONAL, INC.,</b>	)	
	)	
<b>Opposer,</b>	)	
	)	<b>Opposition No.: 91,202,422</b>
<b>v.</b>	)	
	)	
<b>GAYLORD ENTERTAINMENT COMPANY</b>	)	
	)	
<b>Applicant.</b>	)	
_____	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Gaylord Entertainment Company (“Applicant”), by and through its attorneys, Waller Lansden Dortch & Davis LLP, hereby answers the Notice of Opposition filed by Red Robin International, Inc. (“Opposer”) as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice of Opposition and, therefore, denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition and, therefore, denies the same.
3. Applicant is without knowledge or information sufficient to admit or deny the Opposer’s alleged ownership of and the status of the registration cited in Paragraph 3 of the Notice of Opposition and, therefore, denies the same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice of Opposition and, therefore, denies the same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice of Opposition and, therefore, denies the same.

6. Applicant denies the allegations contained in Paragraph 6 of the Notice of Opposition.

7. Applicant admits the allegations contained in Paragraph 7 of the Notice of Opposition.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice of Opposition and, therefore, denies the same.

9. Applicant denies the allegations contained in Paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations contained in Paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations contained in Paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations contained in Paragraph 12 of the Notice of Opposition.

13. Any allegations of Opposer's Notice of Opposition are denied unless explicitly admitted.

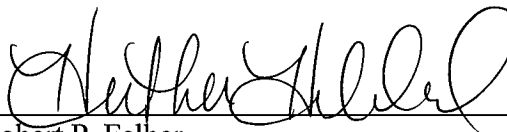
### Affirmative Defenses

In further answer to the Notice of Opposition, Applicant asserts each of the following, without admitting or conceding that it bears the burden of proof or burden of persuasion with respect thereto, whether in whole or in part:

1. Opposer fails, in whole or in part, to state a claim upon which relief can be granted.
2. There is no likelihood of confusion because Applicant's mark and Opposer's marks are not confusingly similar.
3. The term "YUM" is included in numerous third party marks on the Register and in the marketplace related to restaurant services, as evidenced by the following active trademark registrations of record attached at Exhibit A. These marks have co-existed on the Register with Opposer's Mark, without any confusion.
4. There have been no instances of actual confusion between Applicant's and Opposer's marks.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be dismissed in its entirety with prejudice and that Application Serial No. 85/364,172 for the mark YUM Y'ALL in International Class 43 proceed to registration.

This 13<sup>th</sup> day of December, 2011.



Robert P. Felber

Heather J. Hubbard

**WALLER LANSDEN DORTCH & DAVIS, PLLC**

Nashville City Center

511 Union Street, Suite 2700

Nashville, Tennessee 37219

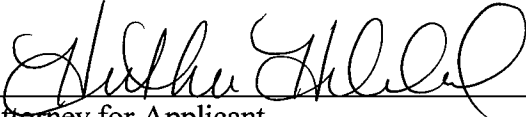
Tel: (615) 244-6380

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**Attorneys for Applicant**


**Certificate of Electronic Filing**

I hereby certify a copy of this Answer to Notice of Opposition is being deposited with the United States Trademark Trial and Appeal Board via electronic submission this 13<sup>th</sup> day of December, 2011.

  
\_\_\_\_\_  
Attorney for Applicant

**Certificate of Service**

I hereby certify that a true and correct copy of this Answer to Notice of Opposition has been sent via U.S. Mail postage-prepaid to counsel of record Kevin S. Costanza, SEED IP Law Group, PLLC, 701 Fifth Avenue, Suite 5400, Seattle, Washington 98104 and via e-mail at [kevinc@seedip.com](mailto:kevinc@seedip.com) and [lital@seedip.com](mailto:lital@seedip.com) this 13<sup>th</sup> day of December, 2011.

  
\_\_\_\_\_  
Attorney for Applicant

# United States of America

United States Patent and Trademark Office



**Reg. No. 3,753,799** YUM YUM DONUT SHOPS, INC. (CALIFORNIA CORPORATION)  
Registered Mar. 2, 2010 18830 E. SAN JOSE AVENUE  
CITY OF INDUSTRY, CA 917481325

**Int. Cls.: 30 and 43** FOR: COFFEE, CAPPUCCINO, ICED CAPPUCCINO, TEA, HOT CHOCOLATE, PASTRIES,  
DONUTS, MUFFINS, BAGELS, CROISSANTS, IN CLASS 30 (U.S. CL. 46).

**TRADEMARK SERVICE MARK** FIRST USE 4-0-1995; IN COMMERCE 4-0-1995.  
**PRINCIPAL REGISTER** FOR: RESTAURANT, DONUT SHOP AND COFFEE SHOP SERVICES, IN CLASS 43 (U.S.  
CLS. 100 AND 101).

FIRST USE 4-0-1995; IN COMMERCE 4-0-1995.

THE MARK CONSISTS OF THE WORDS "YUM YUM" WITH THE DESIGN OF A HAPPY  
FACE APPEARING BETWEEN THE TWO WORDS.

SER. NO. 77-649,080, FILED 1-14-2009.

AMEEN IMAM, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

EXHIBIT

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Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,664,454

Registered Aug. 4, 2009

SERVICE MARK  
PRINCIPAL REGISTER

YUM CHA CAFE

YUM CHA CAFE (MPK) INC. (CALIFORNIA  
CORPORATION)  
566 MONTEREY PASS ROAD  
MONTEREY PARK, CA 91754

FOR: CAFE-RESTAURANTS, IN CLASS 43 (U.S.  
CLS. 100 AND 101).

FIRST USE 1-1-2009; IN COMMERCE 1-1-2009.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "CAFE", APART FROM THE MARK  
AS SHOWN.

THE ENGLISH TRANSLATION OF "YUM CHA"  
IS "DRINKING TEA WITH FRIENDS".

SN 77-394,265, FILED 2-11-2008.

KAPIL BHANOT, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

**United States Patent and Trademark Office**

**Reg. No. 3,246,663**

Registered May 29, 2007

**SERVICE MARK  
PRINCIPAL REGISTER**

**YUM'S SUBS**

YUM'S, INC. (TENNESSEE CORPORATION)  
4571 ELVIS PRESLEY BLVD.  
MEMPHIS, TN 38116

FOR: EAT IN AND CARRYOUT RESTAURANTS  
SERVING SANDWICHES AND BURGERS, AND  
EXCLUDING CHINESE RESTAURANT SERVICES,  
IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 4-0-1996; IN COMMERCE 4-0-1996.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "SUBS", APART FROM THE MARK  
AS SHOWN.

THE NAME IN THE MARK DOES NOT IDENTI-  
FY A LIVING INDIVIDUAL.

SER. NO. 78-787,721, FILED 1-9-2006.

JASON TURNER, EXAMINING ATTORNEY



Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 3,192,988

Registered Jan. 2, 2007

SERVICE MARK  
PRINCIPAL REGISTER



YUM! BRANDS, INC. (NORTH CAROLINA CORPORATION)  
1441 GARDINER LANE  
LOUISVILLE, KY 40213

THE COLOR(S) RED & WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

FOR: BUSINESS MANAGEMENT AND CONSULTATION FOR RESTAURANTS AND FRANCHISE SERVICES, NAMELY, OFFERING ASSISTANCE IN THE ESTABLISHMENT AND OPERATION OF RESTAURANTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

THE COLOR RED APPEARS IN THE BALLOON OR CALLOUT SHAPE, AND THE COLOR WHITE APPEARS IN YUM!.

FIRST USE 10-1-1997; IN COMMERCE 10-1-1997.

SER. NO. 78-808,170, FILED 2-6-2006.

OWNER OF U.S. REG. NOS. 2,300,491, 2,772,281 AND OTHERS.

ESTHER BELENKER, EXAMINING ATTORNEY

**Int. Cl.: 43**

**Prior U.S. Cls.: 100 and 101**

**United States Patent and Trademark Office**

**Reg. No. 2,905,792**  
Registered Nov. 30, 2004

**SERVICE MARK  
PRINCIPAL REGISTER**



YUM'S CARRYOUT, INC. (TENNESSEE COR-  
PORATION)  
2451 JACKSON AVE.  
MEMPHIS, TN 38108

FOR: RESTAURANT SERVICES, IN CLASS 43  
(U.S. CLS. 100 AND 101).

FIRST USE 3-8-1995; IN COMMERCE 3-8-1995.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE SUBS WORLD FAMOUS  
STEAKCHEESE & CHEESEBURGER, APART FROM  
THE MARK AS SHOWN.

SER. NO. 76-525,337, FILED 6-17-2003.

GINA HAYES, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,897,736

Registered Oct. 26, 2004

SERVICE MARK  
PRINCIPAL REGISTER



YUM YUM ASIA CAFE, INC. (FLORIDA CORPORATION)  
851 SOUTH STATE ROAD 434  
SUITE 1120  
ALTAMONTE SPRINGS, FL 32714

FOR: RESTAURANT SERVICES SPECIALIZING  
IN ASIAN CUISINE, COCKTAIL LOUNGE SERVICES  
AND CATERING SERVICES, IN CLASS 43 (U.S.  
CLS. 100 AND 101).

FIRST USE 10-30-2003; IN COMMERCE 10-30-2003.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "ASIA CAFE", APART FROM THE  
MARK AS SHOWN.

SN 76-431,760, FILED 7-15-2002.

GEORGE LORENZO, EXAMINING ATTORNEY

**Int. Cl.: 35**

**Prior U.S. Cls.: 100, 101, and 102**

**United States Patent and Trademark Office**

**Reg. No. 2,772,281**

Registered Oct. 7, 2003

**SERVICE MARK  
PRINCIPAL REGISTER**

**YUM! BRANDS**

YUM! BRANDS, INC. (NORTH CAROLINA CORPORATION)  
1441 GARDNER LANE  
LOUISVILLE, KY 40213 BY CHANGE OF NAME  
TRICON GLOBAL RESTAURANTS, INC.  
(NORTH CAROLINA CORPORATION) LOUISVILLE, KY 40213

FOR: BUSINESS MANAGEMENT AND CONSULTATION FOR RESTAURANTS AND FRANCHISE SERVICES, NAMELY, OFFERING ASSISTANCE IN THE ESTABLISHMENT AND OPERATION OF RESTAURANTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-16-2002; IN COMMERCE 5-16-2002.

OWNER OF U.S. REG. NOS. 2,300,491, 2,300,492, AND 2,302,581.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BRANDS", APART FROM THE MARK AS SHOWN.

SN 76-315,108, FILED 9-20-2001.

VIVIAN MICZNIK FIRST, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cl.: 100

**United States Patent and Trademark Office**

Reg. No. 1,878,981

Registered Feb. 14, 1995

**SERVICE MARK  
PRINCIPAL REGISTER**



ERIK'S DELICAFE, INC. (CALIFORNIA CORPORATION)  
365 CORAL STREET  
SANTA CRUZ, CA 95060

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CL. 100).

FIRST USE 2-0-1993, FIRST USED IN ANOTHER FORM IN 1973; IN COMMERCE 2-0-1993, FIRST USED IN COMMERCE IN ANOTHER FORM IN 1973.

THE STIPPLING ON THE DRAWING IS FOR SHADING PURPOSES ONLY.

THE MARK IS A FANCIFUL REPRESENTATION OF "ERIK R. JOHNSON", FOUNDER, CHAIRMAN, AND CHIEF EXECUTIVE OFFICER OF APPLICANT.

SER. NO. 74-467,053, FILED 12-6-1993.

R. G. COLE, EXAMINING ATTORNEY