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

Proceeding	91204211
Party	Defendant MICHAEL JASON BENDINELLI
Correspondence Address	AARON ISRAELS ISRAELS & GOLDSWORTHY, LLP 4155 E JEWELL AVE STE 502 DENVER, CO 80222-4508 israelsplc@gmail.com
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Date	04/16/2012
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 85/351051
Filed on June 20, 2011
For the Service mark BACK TO THE ROOTS
Published in the *Official Gazette* on November 8, 2011

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B.T.T.R. Ventures, LLC,)	
)	
Opposer,)	Opposition No. 91204211
)	
v.)	
)	
Michael Jason Bendinelli,)	
)	
Applicant.)	

ANSWER OF APPLICANT MICHAEL JASON BENDINELLI

Applicant, Michael Jason Bendinelli (“Applicant”), hereby responds to the Opposition of B.T.T.R. Ventures, LLC (“Opposer”), in the paragraphs below which are numbered to correspond to those set forth in the Notice of Opposition:

1. Applicant admits that the records of the Trademark Trial and Appeal Board reveal the granting of Requests for Extension of Time to File an Opposition against the identified application.

2. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2.

3. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3.

4. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4.

5. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5.

6. Applicant admits that the records of the U.S. Patent and Trademark Office reveal the application identified in paragraph 6.

7. Applicant admits that the records of the U.S. Patent and Trademark Office reveal the Notice of Allowance identified in paragraph 7.

8. Applicant admits that the records of the U.S. Patent and Trademark Office reveal the applications identified in paragraph 8. Applicant is without knowledge and information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 8.

9. Applicant admits the allegations set forth in paragraph 9, with the clarification that Serial No. 85/351051 was filed on June 20, 2011.

10. Applicant denies the allegations that he committed fraud in connection with the filing of Serial No. 85/351051. Applicant is without knowledge and information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 10.

11. Applicant denies the allegations set forth in paragraph 11.

12. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12.

13. Applicant admits that, in or around July 2011, Back to the Roots was opened in Chelsea, Michigan, and this store includes retail operations and a sit-down restaurant area. Applicant is without knowledge and information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 13.

14. Applicant denies that Opposer will be damaged. Applicant is without knowledge and information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 14. In addition, paragraph 14 states legal conclusions for which no response is required.

15. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15. In addition, paragraph 15 states a legal conclusion for which no response is required.

16. Paragraph 16 requests a legal remedy for which no response is required.

AFFIRMATIVE DEFENSES

1. If it is determined that an error was made about the dates of first use claimed in Application Serial No. 85/351051, Applicant avers such error was inadvertent and will be corrected.

2. Applicant claims superior rights in the mark, BACK TO THE ROOTS, in connection with certain online retail services and operation of a retail establishment.

Applicant reserves the right to allege affirmative defenses that he becomes aware of during the course of discovery.


CONCLUSION

Applicant requests that the Notice of Opposition be dismissed and that Application Serial No. 85/351051 be passed to registration.

Respectfully submitted,

BODMAN PLC

By: _____


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Dated: April 16, 2012

Certificate of Service

I hereby certify that the foregoing Answer to Notice of Opposition (No. 91204211) was filed electronically with the Trademark Trial and Appeal Board and a copy served on Opposer by depositing same with the United States Postal Service, First Class Mail postage prepaid, on April 16, 2012, in an envelope addressed to:

Dawn Newton
Fitzgerald Abbott & Beardsley
1220 Broadway 21st Floor
Oakland, CA 94612



Mary Ruvo