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Filing date: **04/30/2019**

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

Proceeding	91240520
Party	Plaintiff Omega Capital Management, LLC
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Submission	Answer to Counterclaim
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Date	04/30/2019
Attachments	2019-04-30 Answer to Counterclaim Omega.pdf(98698 bytes)

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

OMEGA CAPITAL)	
MANAGEMENT, LLC,)	Opposition No.: 91240520
Opposer – Counterclaim)	
Defendant,)	IN THE MATTER OF
)	
)	Application Serial No.: 86/883,902
)	Filed: January 22, 2016
v.)	Mark: OMEGA BANK
)	Class: 36
)	Published: February 6, 2018
F.N.B. CORPORATION,)	
Applicant – Counterclaim)	
Plaintiff.)	

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

**OPPOSER AND COUNTERCLAIM DEFENDANT OMEGA CAPITAL
MANAGEMENT, LLC’S ANSWER TO COUNTERCLAIM**

Opposer and Counterclaim Defendant Omega Capital Management, LLC (“*Omega Capital*”) responds to the Counterclaim of F.N.B. Corporation (“*Applicant*”) as follows:

1. With respect to the introduction paragraph, Omega Capital: (a) admits that it is a Delaware limited liability company with a principal place of business at 4124 S. Rockford Ave., Suite 201, Tulsa Oklahoma 74105, (b) states that it is without knowledge or information to admit or deny the state of incorporation or address of Applicant, (c) admits that Registration No. 4654265 was properly granted to Omega Capital; (d) denies any allegation to the extent it contains an incomplete and/or inaccurate summary of Registration No. 4654265, which speaks for itself, and (e) denies the remainder of the allegations in the introduction paragraph.

2. Omega Capital denies the allegations of paragraph 1.

3. Omega Capital denies the allegations of paragraph 2.
4. Omega Capital denies the allegations of paragraph 3.
5. Omega Capital denies the allegations of paragraph 4.
6. Omega Capital denies the allegations of paragraph 5.
7. Omega Capital denies any and all allegations contained in Opposer's prayer for relief.
8. If not specifically admitted herein, Omega Capital denies each and every allegation in Applicant's Counterclaim.

AFFIRMATIVE DEFENSES

1. Omega Capital has priority to the mark OMEGA CAPITAL and all confusingly similar marks by virtue of common law usage, use analogous to trademark use, and/or the pleaded registration for OMEGA CAPITAL.
2. Applicant has abandoned the OMEGA and OMEGA BANK marks.
3. The Counterclaim fails to state a claim upon which relief can be granted.
4. Applicant is barred on the grounds of estoppel.
5. Applicant is barred on the grounds of waiver.
6. Applicant is barred on the grounds of laches.
7. Applicant is barred on the grounds of acquiescence.
8. Omega Capital reserves all other affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Lanham Act, and any other valid defenses and/or counterclaims that will be developed through the discovery and/or testimony periods in this proceeding.

Accordingly, Omega Capital requests that the Notice of Opposition be sustained, Application No. 86/883,902 be rejected, and the Counterclaim be dismissed.

Respectfully submitted,

Date: April 30, 2019

/Penina Michlin Chiu/

Penina Michlin Chiu
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ATTORNEYS FOR OPPOSER –
COUNTERCLAIM DEFENDANT
OMEGA CAPITAL
MANAGEMENT, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing *OPPOSER AND COUNTERCLAIM DEFENDANT OMEGA CAPITAL MANAGEMENT, LLC'S ANSWER TO COUNTERCLAIM* has been served on Jennifer L. Whitelaw, counsel for F.N.B. Corporation, by forwarding said copy on April 30, 2019, via email to:

Jennifer L. Whitelaw
ttabmail@whitelawfirm.com
usptomail@whitelawfirm.com

/Penina Michlin Chiu/
Penina Michlin Chiu