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

Proceeding	91269888
Party	Defendant AOB PRODUCTS COMPANY
Correspondence Address	HARA K. JACOBS BALLARD SPAHR LLP 1735 MARKET STREET, 51ST FLOOR PHILADELPHIA, PA 19103 UNITED STATES Primary Email: phx_tmddocketing@ballardspahr.com Secondary Email(s): jacobsh@ballardspahr.com, hargensm@ballardspahr.com, deschanej@ballardspahr.com 215-864-8209
Submission	Answer and Counterclaim
Filer's Name	Hara Jacobs
Filer's email	phx_tmddocketing@ballardspahr.com, jacobsh@ballardspahr.com, deschanej@ballardspahr.com, hargensm@ballardspahr.com
Signature	/Hara Jacobs/
Date	07/26/2021
Attachments	ANSWER TO NOTICE OF OPPOSITION AND COUNTERCLAIM 45566378_1.pdf(65247 bytes)

Registration Subject to the submission

Registration No.	3941200	Registration date	04/05/2011
Registrant	Bubba Foods, LLC 4339 ROOSEVELT BLVD., SUITE 400 JACKSONVILLE, FL 32210 UNITED STATES		

Goods/Services Subject to the submission

Class 043. First Use: 2011/01/14 First Use In Commerce: 2011/01/14
All goods and services in the class are requested, namely: Restaurant and bar services

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Bubba Foods, LLC

Opposer,

v.

AOB PRODUCTS COMPANY,

Applicant/Petitioner.

Opposition No.

91269888

**APPLICANT/PETITIONER'S ANSWER
TO NOTICE OF OPPOSITION AND COUNTERCLAIM**

Applicant, AOB Products Company (“Applicant”), by its undersigned counsel, hereby answers the Notice of Opposition filed by Opposer, Bubba Foods, LLC (“Opposer”) as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 1 of the Notice of Opposition, which therefore stand denied.
2. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 2 of the Notice of Opposition, which therefore stand denied.
3. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 3 of the Notice of Opposition, which therefore stand denied.
4. Applicant admits the allegations set forth in paragraph 4 of the Notice of Opposition.
5. Applicant denies the allegations set forth in paragraph 5 of the Notice of Opposition.
6. Applicant denies the allegations set forth in paragraph 6 of the Notice of Opposition.

7. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 7 of the Notice of Opposition, which therefore stand denied.

8. Applicant denies the allegations set forth in paragraph 8 of the Notice of Opposition.

9. Applicant is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 9 of the Notice of Opposition, which therefore stand denied.

10. Applicant denies the allegations set forth in paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations set forth in paragraph 11 of the Notice of Opposition.


12. Applicant denies the allegations set forth in paragraph 12 of the Notice of Opposition.

WHEREFORE, Applicant respectfully requests that Opposition No. 91190794 be dismissed with prejudice and that a registration should issue for Applicant's mark,

The logo for BUBBA, featuring the word "BUBBA" in a bold, black, sans-serif font. The letter "A" is stylized with a small flame-like shape at its top right.

COUNTERCLAIM

Applicant, pursuant to 15 U.S.C. §1064(3), believes it will be damaged by the continued registration of Registration No. 3,941,200 (BUBBA BURGER GRILL), and hereby counterclaims for cancellation of Opposer's federal registration as follows:

13. Applicant is the owner of a pending application for the mark  (Serial No. 88/977,969) for "barbecue grills; fitted covers for barbecue grills; cooking grates adapted for barbecue grills; barbecue grill kits consisting of fitted covers for barbecue grills, grill

mounts, grill pedestal mounts, grill rail mounts, grill rod rail mounts, grill top legs, grill carry bags, grill propane storage, grill mounts for cutting and cutting/filleting, grill trays for fish and vegetables, serving shelves, grill lights, grill lighters, rotisserie kits, smoker box, propane gauge, grill grids, grill warming racks, grill warming trays, grill side shelves, grill tables, pizza ovens; electric and gas-powered griddles; tables designed to hold gas grills; carrying bags specially adapted for holding or carrying outdoor grills; structural parts and fittings for all of the aforesaid goods” in Class 11, among other goods in Classes 8 and 9.

14. Opposer is the listed owner of Registration No. 3,941,200 for the mark BUBBA BURGER GRILL in connection with “restaurant and bar services” in Class 43 (“‘200 Registration”).

15. Opposer has pled the ‘200 Registration in its Notice of Opposition for the present proceeding.

16. Pursuant to 15 U.S.C. § 1059, the deadline for Opposer to file its Section 9 declaration for the ‘200 Registration was April 5, 2021.

17. To date, Opposer has not filed its Section 9 declaration for the ‘200 Registration.

18. Upon information and belief, Opposer does not presently use the mark of the ‘200 Registration in connection with the services listed in the registration and has no intention to use the mark of the ‘200 Registration therewith.

19. Upon information and belief, Opposer has not used the mark of the ‘200 Registration in connection with the goods listed in the registration for at least the past 3 consecutive years prior to the filing of this Answer, and has no intention to resume use the mark of the ‘200 Registration therewith.

20. Accordingly, the ‘200 Registration should be cancelled.

WHEREFORE, Applicant respectfully requests that Registration No. 3,941,200 be cancelled pursuant to 15 U.S.C. §1064(3), on the basis of Opposer's loss of rights in the marks due to abandonment.

Respectfully submitted,

This 26th day of July 2021

By: /Hara K. Jacobs/
Hara K. Jacobs
Jodi A. DeSchane
BALLARD SPAHR LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103

ATTORNEYS FOR APPLICANT/PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT/PETITIONER'S ANSWER TO NOTICE OF OPPOSITION AND COUNTERCLAIM has been served by forwarding a copy, via email, to the address listed below:


Meredith Frank Mendez

Malloy & Malloy, P.L.

2800 SW 3rd Avenue

Miami, FL 33129

E-mail: mmendez@malloylaw.com, jcmalloy@malloylaw.com, pmatos@malloylaw.com, litigation@malloylaw.com

Signature: 

Date: July 26, 2021