

ESTTA Tracking number: **ESTTA1324328**Filing date: **11/24/2023**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91287675
Party	Defendant IP SPC LLC
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Submission	Answer
Filer's name	Abby Salzer
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Signature	/abby salzer/
Date	11/24/2023
Attachments	Answer to Opposition SQUARE PIE CITY.pdf(181294 bytes )

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

**SQUARE PIE GUYS, LLC**

Opposer,

v

Opposition No. 91287675

Serial No. 97234354

Mark: SQUARE PIE CITY

**IP SPC, LLC**

Applicant.

**APPLICANT’S ANSWER TO NOTICE OF OPPOSITION**

IP SPC, LLC, (“Applicant”) responds to the Notice of Opposition filed by Square Pie Guys, LLC (“Opposer”) as follows:

Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations concerning Opposer’s entity type and state of formation and its address and therefore denies same. Applicant denies the remaining allegations in the introductory paragraph to the Notice of Opposition.

1. Applicant admits it was formed in the State of Florida on January 14, 2022.
2. Applicant admits the allegations in Paragraph 2.
3. Applicant denies all allegations in Paragraph 3.
4. Applicant admits the allegations of Paragraph 4.
5. Applicant admits the allegations of Paragraph 5.
6. Applicant denies all allegations in Paragraph 6.
7. Applicant denies all allegations in Paragraph 7.

8. Applicant admits the allegations in Paragraph 8.

9. Applicant admits the allegations in Paragraph 9.

10. Applicant admits the allegations in Paragraph 10.

11. Applicant admits the allegations in Paragraph 11.

12. Applicant admits the allegations in Paragraph 12.

13. Applicant admits only that Opposer timely filed its Notice of Opposition further to its previously requested extensions of time to oppose but denies that Opposer has a cognizable basis to oppose the subject trademark application and avers that its mark SQUARE PIE CITY is entitled to registration.

14. Applicant denies the allegation in Paragraph 14.

15. Applicant denies all allegations in Paragraph 15.

16. Applicant admits the allegations in Paragraph 16.

17. Applicant admits the allegations in Paragraph 17.

18. Applicant admits the allegations in Paragraph 18.

19. Applicant admits the allegations in Paragraph 19.

20. Applicant denies the allegations in Paragraph 20.

21. Applicant denies all allegations in Paragraph 21.

22. Applicant denies all allegations in Paragraph 22.

23. Applicant denies all allegations in Paragraph 23.

24. Applicant denies all allegations in Paragraph 24.

25. Applicant denies all allegations in Paragraph 25.

26. Applicant denies all allegations in Paragraph 26.

27. Applicant denies all allegations in Paragraph 27.

28. Applicant denies all allegations in Paragraph 28.

29. Applicant denies all allegations in Paragraph 29.

30. Applicant denies all allegations in Paragraph 30.

31. Applicant denies all allegations in Paragraph 31.

32. Applicant admits the allegations in Paragraph 32.

33. Applicant admits the allegations in Paragraph 33.

34. Applicant denies all allegations in Paragraph 34.

35. Applicant denies all allegations in Paragraph 35.

36. Applicant denies all allegations in Paragraph 36.

37. Applicant denies all allegations in Paragraph 37.

38. Applicant denies all allegations in Paragraph 38.

39. Applicant denies all allegations in Paragraph 39.

40. Applicant denies all allegations in Paragraph 40.

41. Applicant denies all allegations in Paragraph 41.

42. Applicant admits that the USPTO approved and published for opposition its Application No. 97234354 covering SQUARE PIE CITY on April 18, 2023.

43. Applicant denies all allegations in Paragraph 43.

44. Applicant denies all allegations in Paragraph 44.

45. Applicant denies all allegations in Paragraph 45.

46. Applicant denies all allegations in Paragraph 46.

47. Applicant denies all allegations in Paragraph 47.

48. Applicant denies all allegations in Paragraph 48.

49. Applicant admits that in response to a Non-Final Office Action, Applicant amended the filing basis of its Application No. 97234354 to intent to use under Section 1(b) and as such has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date.

50. Applicant denies the allegations in Paragraph 52.

51. Applicant denies the allegation in Paragraph 51.

52. Applicant denies the allegation in Paragraph 52.

53. Applicant denies the allegation in Paragraph 53.

54. Applicant denies the allegation in Paragraph 54.

55. Applicant denies the allegations in Paragraph 55.

56. Applicant admits that the USPTO approved and published for opposition its Application No. 97234354 covering SQUARE PIE CITY on April 18, 2023.

57. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding services for which Opposer's SQUARE PIE GUYS mark is offered or used and therefore denies same. Applicant denies the remaining allegations in Paragraph 57.

58. Applicant denies all allegations in Paragraph 58.

59. Applicant denies all allegations in Paragraph 59.

60. Applicant denies all allegations in Paragraph 60.

61. Applicant denies all allegations in Paragraph 61.

62. Applicant admits there is no affiliation or connection between Applicant and Opposer and denies Opposer would need to endorse or approve any goods or services offered or intended to be offered or sold by Applicant. Applicant denies all remaining allegations in Paragraph 62.

63. Applicant denies all allegations in Paragraph 63.

64. Applicant denies all allegations in Paragraph 64.

65. Applicant denies all allegations in Paragraph 65.

### **AFFIRMATIVE DEFENSES**

Without prejudice to the denials set forth in its Answer and without admitting any of Opposer's allegations not otherwise admitted, Applicant asserts the following affirmative defenses:

1. Opposer's claims are barred by laches because Applicant or its predecessor in interest has continuous substantial use of its mark SQUARE PIE CITY since adoption, this mark is a valuable asset of Applicant and carries considerable goodwill and consumer acceptance of its goods and services sold under the mark. Such goodwill and widespread usage have made the SQUARE PIE CITY mark distinctive to the Applicant.

2. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception between Applicant's mark and the pleaded mark of Opposer, SQUARE PIE GUYS, as they are not confusingly similar. Any similarity, if at all, between Applicant's mark and the pleaded mark of Opposer is in the portion "SQUARE PIE," which has been used by numerous third parties in the foods and restaurant business, specifically in connection with pizza. As a result, Opposer cannot base any similarity between its pleaded mark and the mark of Applicant on the "SQUARE PIE." Any trademark or service mark rights Opposer may have are narrowly circumscribed to the services indicated and any other use would not lead to a likelihood of confusion.

WHEREFORE, Applicant requests that the notice of opposition be dismissed.

Respectfully submitted for Applicant, IP SPC, LLC

Dated: November 24, 2023

By: /s/Abby Salzer/

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Applicant's Answer to Notice of Opposition has been served on counsel for Opposer, Square Pie Guys, LLC, by sending a copy via email to [rhilbert@holleymenker.com](mailto:rhilbert@holleymenker.com) and [eastdocket@holleymenker.com](mailto:eastdocket@holleymenker.com) on November 24, 2023.

/s/ Abby Salzer