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EXPRESS MAIL NO.: EL 997621557 US

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

In the Matter of Registration No. 2,336,220

Mark: LIVE BAIT

Issued: March 28, 2000

Cancellation No. 92044254

75/736,878

THEME FOOD, Inc.

Petitioner,

v.

LIVE BAIT, L.L.C.

Registrant.

REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION

Registrant, LIVE BAIT, L.L.C. ("Registrant") for its answer to the Petition for Cancellation (the "Petition for Cancellation") filed by Theme Food Inc., ("Petitioner") against the registration of Registrant of its trademark LIVE BAIT, Registration No. 2,336,220, pleads and answers as follows:

1. Answering paragraph 1 of the Petition for Cancellation filed by Petitioner, the Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies such allegations.



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2. Answering paragraph 2 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies such allegations.

3. Answering paragraph 3 of the Petition for Cancellation, Registrant denies the allegations contained therein.

4. Answering paragraph 4 of the Petition for Cancellation, Registrant admits that the electronic records of the U.S. Patent and Trademark Office reflects that a mark consisting of the term LIVE BAIT with stylized lettering and design elements was registered in International Class 42 by way of US Registration No. 1,544,956 and that two individuals are listed as the owners of such registration. Registrant does not have sufficient information to form a belief as to the remaining allegations of paragraph four of the Petition for Cancellation and accordingly denies said allegations. The registration of which Petitioner claims ownership was cancelled on December 26, 1995. Such cancelled registration does not have the effect of providing legal notice to Registrant or any other persons with respect to the mark.

5. Answering paragraph 5 of the Petition for Cancellation, Registrant admits Registration 1,544,956 was cancelled by the USPTO on December 26, 1995. Registrant does not have sufficient knowledge or information to form a belief as to the remaining allegations contained therein and accordingly denies said allegations.

6. Answering paragraph 6 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies said allegations.

7. Answering paragraph 7 of the Petition for Cancellation, Registrant admits the allegations contained therein.

8. Answering paragraph 8 of the Petition for Cancellation, Registrant denies such allegations.

9. Answering paragraph 9 of the Petition for Cancellation, Registrant denies such allegations. On information and belief, Registrant has first use of the LIVE BAIT mark nationwide, and nationwide priority with respect to such mark. Petitioner does not have the right to expand use of the LIVE BAIT mark into Alabama or other regions of the U.S. notwithstanding Registrant's registration. Petitioner may not secure registration of the LIVE BAIT mark because Registrant has the right to use the LIVE BAIT mark in the U.S.

10. Answering paragraph 10 of the Petition for Cancellation, Registrant admits Registration No. 2,336,220 gives Registrant a presumption of its ownership of the mark LIVE BAIT for restaurant services. Registrant denies Petitioner has superior rights in such mark.

AFFIRMATIVE DEFENSES

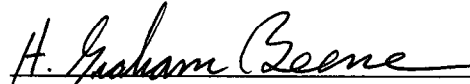
Petitioner's claims and relief are barred by the doctrines of laches, estoppel, and acquiescence.

WHEREFORE, the Applicant requests that the Petition for Cancellation be dismissed in its entirety.

Respectfully submitted,

Dated: July 14, 2005

LIVE BAIT, L.L.C.
By its attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Registrant's Answer to Petition for Cancellation has been served on the following by directing same to their office addresses through first-class, United States mail, postage prepaid, on this the 14th day of July, 2005:

Michael A. Cornman
Schweitzer Cornman Gross & Bondell LLP
292 Madison Avenue, 19th Floor
New York, NY 10017



OF COUNSEL

CERTIFICATE OF EXPRESS MAILING

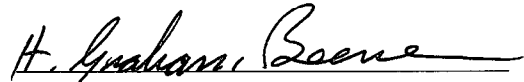
CANCELLATION NO: 92044254
PETITIONER: THEME FOOD, Inc.
REGISTRANT: LIVE BAIT, L.L.C.
MARK: LIVE BAIT
REG. No.: 2,336,220

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DATE OF DEPOSIT: July 14, 2005

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 2.198 on the date indicated above and is addressed to United States Patent and Trademark Office, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451.

H. Graham Beene



Date: July 14, 2005