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

Proceeding	92055372
Party	Defendant BOI Promotions Inc.
Correspondence Address	BOI PROMOTIONS INC 327 W 21ST ST STE 2R NEW YORK, NY 10011 UNITED STATES
Submission	Answer
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Signature	/Roberto Ledesma/
Date	05/03/2012
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Brian Landeche,  
Petitioner,

v.

Boi Promotions Inc.  
Registrant.

Cancellation No. 92055372

Registration No. 3940550

Mark: TWINK! TUESDAYS

**ANSWER TO PETITION FOR CANCELLATION**

Registrant Boi Promotions Inc., by its counsel, responds as follows to the Petition for Cancellation filed herein.

1. Admitted.
2. Denied.
3. Denied.
4. Admitted.
5. Admitted.
6. Admitted.
7. Denied.
8. Admitted.
9. Admitted.
10. Denied.
11. Denied.
12. Denied.
13. Denied

**AFFIRMATIVE DEFENSES**

FURTHERMORE, Registrant sets forth the following affirmative defenses and statements in support of its defense:

14. Petitioner is not now using and has never used the mark TWINK! TUESDAYS in U.S. interstate commerce in connection with “night clubs,” as claimed in its application. TWINK! TUESDAYS is an entertainment event NOT a “night club.” Petitioner offers “night club” services under the mark SPLASH, which is not at issue in the instant proceeding.

15. When Petitioner submitted its subject application based on use in commerce under Section 1(a) of the Trademark Act, 15 U.S.C. Section 1051(a), its mark was not in use for the services listed in its application, nor as of the date claimed. Petitioner’ nonuse of the mark at the time of filing for services not in use rendered the application *void ab initio*.

16. Petitioner owns no rights to the mark TWINK! TUESDAYS and has never owned rights to a TWINK! TUESDAYS mark. Petitioner merely provided the venue for Registrant to offer its TWINK! TUESDAYS services.

17. Petitioner’s claim of use in interstate commerce of TWINK! TUESDAYS as a trademark for the services recited in the application is false.

18. Petitioner committed fraud on the USPTO in claiming use at least as early as January 2005 in interstate commerce of TWINK! TUESDAYS as a trademark for the services recited in its application.

19. Petitioner’s claim of use in interstate commerce of TWINK! TUESDAYS since at least as early as January 2005 in the application is false.

20. Petitioner’s specimen of use in its application demonstrates use by Registrant. See Petitioner’s specimen filed with its application on September 19, 2010, which clearly states that TWINK! TUESDAYS is presented by BOIPARTY.COM.

21. Given Petitioner’s fraudulent filing and nonuse of the mark TWINK! TUESDAYS, its application is not entitled to a filing date.

22. There is no likelihood of confusion in this matter because Petitioner is attempting to claim trademark rights based on Registrant’s mark and goodwill.

23. Registrant has priority to the mark at issue in the instant proceeding.

WHEREFORE, Registrant prays that this Petition for Cancellation be dismissed and that judgment be entered in favor of Registrant.

Boi Promotions, Inc.

/Roberto Ledesma/

Roberto Ledesma  
Lewis & Lin, LLC  
45 Main St. Suite 608  
Brooklyn, NY 11201  
718-243-9323

Date: May 3, 2012

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon Petitioner this 3rd day of May, 2012, by mailing a copy thereof via first-class mail, postage pre-paid, to Joshua M. Gerben, Gerben Law Firm, PLLC, Suite 500, 1155 Connecticut Ave NW, Washington, DC 20036.

/Roberto Ledesma/  
Roberto Ledesma