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

Proceeding	92060962
Party	Defendant Fox Restaurant Concepts LLC
Correspondence Address	FOX RESTAURANT CONCEPTS LLC 4455 EAST CAMELBACK ROAD PHOENIX, AZ 85018 UNITED STATES
Submission	Answer
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Date	04/07/2015
Attachments	FRC Answer to Petition for Cancellation BARFLY.pdf(21572 bytes)

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

In the matter of Trademark Registration No.
4,020,692
For the mark BARFLY
Registered August 30,2011

BARFLY VENTURES, LLC

Petitioner,

v.

FOX RESTAURANT CONCEPTS LLC

Respondent.

Cancellation No. 92060962

Answer to Petition for Cancellation

Respondent Fox Restaurant Concepts LLC (“Fox” or “Respondent”), for its answer to the Petition for Cancellation of Barfly Ventures, LLC (“Petitioner”), alleges as follows:

Respondent admits the statements made in the first two sentences of the opening paragraph of the Petition for Cancellation. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in the remainder of the opening paragraph of the Petition for Cancellation and, on that basis, denies such allegations.

1. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Petition for Cancellation and, on that basis, denies such allegations.

2. Respondent admits that Petitioner is listed as the applicant of U.S. Serial No. 86/162170; otherwise Respondent is without knowledge or information sufficient to form a belief

as to the truth of the remainder of the allegations in Paragraph 2 of the Petition for Cancellation and, on that basis, denies such allegations.

3. Respondent admits the allegations in Paragraph 3 of the Petition for Cancellation.

4. Respondent admits the allegations of Paragraph 4 of the Petition for Cancellation.

5. Respondent denies the allegations of Paragraph 5 of the Petition for Cancellation.

6. Answering Paragraph 6 of the Petition for Cancellation, Respondent admits that Petitioner has correctly quoted portions of the cited article attached as Exhibit C to the Petition for Cancellation, but to the extent that the article is relevant and admissible, Respondent asserts that the cited article speaks for itself and denies Petitioner's characterizations of the article.

7. Answering Paragraph 7 of the Petition for Cancellation, Respondent admits that Petitioner has correctly quoted portions of the cited article attached as Exhibit D to the Petition for Cancellation, but to the extent that the article is relevant and admissible, Respondent asserts that the cited article speaks for itself and denies Petitioner's characterizations of the article.

8. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Petition for Cancellation and, on that basis, denies such allegations.

9. Answering Paragraph 9 of the Petition for Cancellation, Respondent admits there is currently no BARFLY® restaurant operating at Phoenix Sky Harbor International Airport ("Airport") and that the web pages attached as Exhibit E and Exhibit F to the Petition for cancellation do not list a BARFLY® restaurant. Respondent denies the remaining allegations in Paragraph 9.

10. Respondent denies the allegations contained in Paragraph 10 of the Petition for Cancellation; and Respondent affirmatively asserts that it has never abandoned or intended to

abandon the BARFLY mark , that Respondent intends to resume, and has undertaken efforts to resume, use of BARFLY in the ordinary course of trade.

11. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Petition for Cancellation and, on that basis, denies such allegations.

12. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Petition for Cancellation and, on that basis, denies such allegations.

13. Respondent denies the allegations contained in Paragraph 13 of the Petition for Cancellation; and Respondent affirmatively asserts that it has not “discontinued” use —i.e. ceased use with an intent not to resume use—of BARFLY, and instead Respondent has undertaken efforts to resume use of BARFLY in the ordinary course of trade.

14. Respondent admit that Petition correctly quotes a portion of the cited statute, but Respondent affirmatively states that the same statute provides that abandonment occurs only if “use has been discontinued with an intent not to resume such use.”

15. Respondent denies the allegations contained in Paragraph 15 of the Petition for Cancellation.

16. Respondent denies the allegations contained in Paragraph 16 of the Petition for Cancellation.

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THEREFORE, Respondent respectfully requests that the Board deny Petitioner's Petition to Cancel Respondent's U.S. Registration No. 4,020,692.

Respectfully submitted this 7th day of April, 2015.

BACAL LAW GROUP, P.C.

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Certificate of Mailing or Transmission Pursuant to 37 C.F.R. § 2.119

Registration No.: 4,020,692
Mark: BARFLY
Respondent: Fox Restaurant Concepts LLC
Type of Filing: Answer to Petition for Cancellation

I hereby certify that this Answer to Petition for Cancellation is being filed electronically with the United States Trademark Trial and Appeal board 37 C.F.R. §2.119.

I hereby further certify that this Answer to Petition for Cancellation is being sent via Express Mail addressed to:

Philip R. Warn
Warn Partners
691 N. Squirrel Road, #140
Auburn Hills, Michigan 48326
Attorney of Record for Petitioner

/s/Glenn Spencer Bacal
Signature

April 7, 2015
Date