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

Proceeding no.	92086963
Party	Defendant 515 Jersey LLC
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Michael Tuttle,	)	Cancellation No: 92086963
	)	
Petitioner	)	
	)	
v.	)	Registration Nos: 6,052,427 and 6,813,389
	)	
515 Jersey LLC,	)	
	)	
Registrant.	)	
_____	)	

ANSWER TO PETITION TO CANCEL

Registrant, 515 Jersey LLC ("Registrant" or "515 Jersey") submits the following Answer to the Petition to Cancel filed by Petitioner, Michael Tuttle ("Petitioner" or "Tuttle"), concerning Registrant's trademark 

as set forth in U.S. Trademark Registration No. 6,052,427 (referred to herein as the "TEMPEST mark"), and Registrant's trademark 

as set forth in U.S. Trademark Registration No. 6,813,389 (referred to herein as the "CHURCH & UNION mark"). The TEMPEST mark and the CHURCH & UNION mark are referred to herein collectively as "Registrant's Marks."

ANSWER

In response to the allegations of the prefatory paragraph of the Petition to Cancel, Registrant admits only so much of the allegations that allege Petitioner is a resident of North Carolina. Registrant denies the allegations in the prefatory paragraph of the Petition to Cancel, which assert that Petitioner has been or will be damaged by Registrant's U.S. Trademark Registration No. 6,052,427 (the '427 Registration) and/or by Registrant's U.S. Trademark

Registration No. 6,813,389 (the ‘389 Registration). In further response Registrant asserts that the actual ‘427 Registration, the actual ‘389 Registration and the records associated therewith are the best evidence of their content. Registrant craves reference to the ‘427 Registration and ‘389 Registration referenced in the prefatory Paragraph and denies any allegations inconsistent therewith.

Registrant denies all allegations of the Petition to Cancel (the “Petition”), unless specifically admitted hereinafter.

1. The allegations in Paragraph 1 of the Petition call for or state a legal conclusion and do not require a response from Registrant. To the extent a response is required, Registrant admits only so much of the allegations of Paragraph 1 as allege that the ‘427 Registration and ‘389 Registration are owned by Registrant. Registrant denies the remaining allegations contained in Paragraph 1 of the Petition and demands strict proof thereof.

2. In response to the allegations of Paragraph 2 of the Petition, Registrant admits that it is a limited liability company formed under the laws of North Carolina and has addresses of 2301 Providence Road, Charlotte, North Carolina 28284, and 215 N. Pine Street #4704, Charlotte, North Carolina 28202 as set forth in the records associated with the ‘427 Registration and ‘389 Registration.

3. Registrant asserts that the actual trademark application and ‘427 Registration referenced in Paragraph 3 and the records associated therewith are the best evidence of their content. Registrant craves reference to the ‘427 Registration and denies any allegations inconsistent therewith.

4. Registrant asserts that the actual trademark application and ‘389 Registration referenced in Paragraph 4 and the records associated therewith are the best evidence of their

content. Registrant craves reference to the '389 Registration and denies any allegations inconsistent therewith.

5. The allegations in Paragraph 5 of the Petition set forth Petitioner's purported short-hand definitions and do not require a response from Registrant. To the extent a response is required, Registrant craves reference to the '389 Registration and the '427 Registration and denies any allegations inconsistent therewith.

6. In response to the allegations in Paragraph 6 of the Petition, Registrant admits only so much of the allegations that allege that: (a) Petitioner owns a membership interest in Pink Moon SC LLC d/b/a Tempest, a South Carolina limited liability company, which operates a restaurant known as Tempest in Charleston, South Carolina; (b) Petitioner owns a membership interest in Church and Union, LLC d/b/a Church and Union Nashville, a North Carolina limited liability company, which operates a restaurant in Nashville, Tennessee; and (c) Petitioner owns a membership interest in Church and Union DEN, LLC, a North Carolina limited liability company, which operates a restaurant in Denver, Colorado. In further response to the allegations of Paragraph 6 of the Petition, Registrant admits that Registrant does not have a membership interest in Pink Moon SC LLC d/b/a Tempest, Church and Union, LLC d/b/a Church and Union Nashville and Church and Union DEN, LLC. Registrant denies the remaining allegations contained in Paragraph 6 of the Petition and demands strict proof thereof.

7. In response to the allegations in Paragraph 7 of the Petition, Registrant admits only so much of the allegations that allege that Pink Moon SC LLC d/b/a Tempest uses the TEMPEST Mark. In further response to the allegations of Paragraph 7, Registrant asserts that the '427 Registration and the records associated therewith are the best evidence of their content. Registrant craves reference to the '427 Registration and the records associated therewith, and

denies any allegations inconsistent therewith. In further response to the allegations of Paragraph 7 of the Petition, Registrant admits that Exhibit A appears to be screenshots from portions of the website operated with respect to the restaurant known as Tempest in Charleston, South Carolina operated by Pink Moon SC LLC d/b/a Tempest. The remaining allegations in Paragraph 7 of the Petition call for or state legal conclusions and do not require a response from Registrant. To the extent a response is required, Registrant denies the remaining allegations contained in Paragraph 7 of the Petition and demands strict proof thereof.

8. In response to the allegations in Paragraph 8 of the Petition, Registrant admits only so much of the allegations that allege that Church and Union, LLC d/b/a Church and Union Nashville and Church and Union DEN, LLC each use the CHURCH & UNION Mark. In further response to the allegations of Paragraph 8, Registrant asserts that the '389 Registration and the records associated therewith are the best evidence of their content. Registrant craves reference to the '389 Registration and the records associated therewith, and denies any allegations inconsistent therewith. In further response to the allegations of Paragraph 8 of the Petition, Registrant admits that Exhibit B appears to be screenshots from portions of the website operated with respect to the restaurant in Denver, Colorado operated by Church and Union DEN, LLC, and Registrant admits that Exhibit C appears to be screenshots from portions of the website operated with respect to the restaurant in Nashville, Tennessee operated by Church and Union, LLC d/b/a Church and Union Nashville. The remaining allegations in Paragraph 8 of the Petition call for or state legal conclusions and do not require a response from Registrant. To the extent a response is required, Registrant denies the remaining allegations contained in Paragraph 7 of the Petition and demands strict proof thereof.

9. The allegations in Paragraph 9 of the Petition set forth Petitioner's purported short-hand definitions and do not require a response from Registrant. To the extent a response is required, Registrant craves reference to the '389 Registration and the '427 Registration and denies any allegations inconsistent therewith. Registrant denies any allegations of Paragraph 9 which allege or imply that Petitioner owns the marks alleged to be at issue in the proceeding.

10. Registrant denies the allegations contained in Paragraph 10 of the Petition and demands strict proof thereof.

11. In response to the allegations in Paragraph 11 of the Petition, Registrant asserts that the actual trademark application and '427 Registration referenced in Paragraph 11 and the records associated therewith are the best evidence of their content. Registrant craves reference to the '427 Registration the records associated therewith and denies any allegations inconsistent therewith.

12. In response to the allegations in Paragraph 12 of the Petition, Registrant asserts that the actual trademark application and '427 Registration referenced in Paragraph 12 and the records associated therewith are the best evidence of their content. Registrant craves reference to the '427 Registration, the records associated therewith and denies any allegations inconsistent therewith.

13. In response to the allegations in Paragraph 13 of the Petition, Registrant asserts that the actual trademark application and '389 Registration referenced in Paragraph 13 and the records associated therewith are the best evidence of their content. Registrant craves reference to the '389 Registration the records associated therewith and denies any allegations inconsistent therewith.

14. In response to the allegations in Paragraph 14 of the Petition, Registrant asserts that the actual trademark application and '389 Registration referenced in Paragraph 14 and the records associated therewith are the best evidence of their content. Registrant craves reference to the '389 Registration the records associated therewith and denies any allegations inconsistent therewith.

15. Registrant denies the allegations contained in Paragraph 15 of the Petition and demands strict proof thereof.

16. Registrant denies the allegations contained in Paragraph 16 of the Petition and demands strict proof thereof.

17. In response to the allegations in Paragraph 17 of the Petition, Registrant asserts that the actual trademark application documents associated with the '427 Registration speak for themselves and are the best evidence of their content. Registrant craves reference to the records associated with the trademark application documents associated with the '427 Registration and denies any allegations inconsistent therewith. Registrant denies the remaining allegations contained in Paragraph 17 of the Petition and demands strict proof thereof.

18. In response to the allegations in Paragraph 18 of the Petition, Registrant asserts that the actual trademark application documents associated with the '389 Registration speak for themselves and are the best evidence of their content. Registrant craves reference to the records associated with the trademark application documents associated with the '389 Registration and denies any allegations inconsistent therewith. Registrant denies the remaining allegations contained in Paragraph 18 of the Petition and demands strict proof thereof.

19. The allegations in Paragraph 19 of the Petition call for or state a legal conclusion and do not require a response from Registrant. To the extent a response is required, Registrant

denies the allegations of Paragraph 19 to the extent they allege or imply that use of the TEMPEST Mark has not occurred which inures to the benefit of Registrant. Registrant denies the remaining allegations contained in Paragraph 19 of the Petition and demands strict proof thereof.

20. The allegations in Paragraph 20 of the Petition call for or state a legal conclusion and do not require a response from Registrant. To the extent a response is required, Registrant denies the allegations of Paragraph 20 to the extent they allege or imply that use of the CHURCH & UNION Mark has not occurred which inures to the benefit of Registrant. Registrant denies the remaining allegations contained in Paragraph 19 of the Petition and demands strict proof thereof.

21. The allegations in Paragraph 21 of the Petition call for or state a legal conclusion and do not require a response from Registrant. To the extent a response is required, Registrant denies the allegations of Paragraph 21 to the extent they allege or imply that use of the TEMPEST Mark has not occurred which inures to the benefit of Registrant or that information contained in the trademark application filed by Registrant was intentionally false. Registrant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 21 related to the third-party statements, documents, news articles and/or websites referenced therein and therefore, must deny the same and demand strict proof thereof. Registrant denies the remaining allegations contained in Paragraph 21 of the Petition and demands strict proof thereof.

22. The allegations in Paragraph 22 of the Petition call for or state a legal conclusion and do not require a response from Registrant. To the extent a response is required, Registrant denies the allegations of Paragraph 22 to the extent they allege or imply that use of the

CHURCH & UNION Mark has not occurred which inures to the benefit of Registrant or that information contained in the trademark application filed by Registrant was intentionally false. Registrant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 22 related to the third-party statements, documents, news articles and/or websites referenced therein and therefore, must deny the same and demand strict proof thereof. Registrant denies the remaining allegations contained in Paragraph 22 of the Petition and demands strict proof thereof.

23. In response to the allegations in Paragraph 23 of the Petition, Registrant denies the allegations of Paragraph 23 to the extent they allege or imply that use of the TEMPEST Mark and/or the CHURCH & UNION Mark has not occurred which inures to the benefit of Registrant or that information contained in the trademark application filed by Registrant was intentionally false. Registrant denies the remaining allegations contained in Paragraph 23 of the Petition and demands strict proof thereof.

24. Registrant denies the allegations contained in Paragraph 24 of the Petition and demands strict proof thereof.

25. The allegations in Paragraph 25 of the Petition call for or state a legal conclusion and do not require a response from Registrant. To the extent a response is required, Registrant denies the allegations contained in Paragraph 25 of the Petition and demands strict proof thereof.

26. Registrant denies the allegations contained in Paragraph 26 of the Petition and demands strict proof thereof.

27. Registrant denies the allegations contained in Paragraph 27 of the Petition and demands strict proof thereof.

28. Registrant denies the allegations contained in Paragraph 28 of the Petition and demands strict proof thereof.

29. In response to the allegations of Paragraph 29 of the Petition, Registrant repeats and realleges its responses in the preceding paragraphs as if stated here verbatim.

30. Registrant denies the allegations contained in Paragraph 30 of the Petition and demands strict proof thereof.

31. In response to the allegations of Paragraph 31 of the Petition, Registrant repeats and realleges its responses in the preceding paragraphs as if stated here verbatim.

32. Registrant denies the allegations contained in Paragraph 32 of the Petition and demands strict proof thereof.

33. Registrant denies the allegations contained in Paragraph 33 of the Petition and demands strict proof thereof.

34. Registrant denies the allegations contained in Paragraph 34 of the Petition and demands strict proof thereof.

35. In response to the allegations of Paragraph 35 of the Petition, Registrant repeats and realleges its responses in the preceding paragraphs as if stated here verbatim.

36. Registrant denies the allegations contained in Paragraph 36 of the Petition and demands strict proof thereof.

37. Registrant denies the allegations contained in Paragraph 37 of the Petition and demands strict proof thereof.

38. Registrant denies the allegations contained in Paragraph 38 of the Petition and demands strict proof thereof.

39. In response to the allegations of Paragraph 39 of the Petition, Registrant repeats and realleges its responses in the preceding paragraphs as if stated here verbatim.

40. Registrant denies the allegations contained in Paragraph 40 of the Petition and demands strict proof thereof.

41. In response to the allegations of Paragraph 41 of the Petition, Registrant repeats and realleges its responses in the preceding paragraphs as if stated here verbatim.

42. Registrant denies the allegations contained in Paragraph 42 of the Petition and demands strict proof thereof.

43. Registrant denies the allegations contained in Paragraph 43 of the Petition and demands strict proof thereof.

44. In response to the allegations of Paragraph 44 of the Petition, Registrant repeats and realleges its responses in the preceding paragraphs as if stated here verbatim.

45. Registrant denies the allegations contained in Paragraph 45 of the Petition and demands strict proof thereof.

46. Registrant denies the allegations contained in Paragraph 46 of the Petition and demands strict proof thereof.

47. While Registrant asserts that Petitioner's prayer for relief or "Wherefore" clause requires no response, Registrant denies that Petitioner is entitled to the relief requested in its prayer and/or any other relief. To the extent that Petitioner avers or makes any allegations in its prayer for relief or elsewhere in its Petition that were not specifically addressed herein, any such averments and/or allegations are denied.

ADDITIONAL DEFENSES

As further answer and as additional defenses, Registrant pleads the following:

FIRST DEFENSE
(Failure to State a Claim)

48. Registrant would respectfully show each and every cause of action set forth in the Petition fails to state a claim upon which relief can be granted and, therefore, the Petition should be dismissed pursuant to Rule 12(b)(6) and such other applicable Rules of the Federal Rules of Civil Procedure and/or TBMP.

SECOND DEFENSE
(Unclean Hands)

49. The relief requested by Petitioner should be denied because the Petitioner does not come to court with clean hands.

THIRD DEFENSE
(Estoppel By Conduct)

50. Petitioner by actions, conduct, words, or silence which amounts to a representation or other concealment of material facts, has caused Registrant to alter its position to its prejudice or injury and should, therefore, be estopped from bringing the within claims by the foregoing conduct and such constitutes a complete defense to all claims. Such actions include, but are not limited to, unreasonable delay in bringing this action and accepting Registrant's ownership of the relevant registrations for a number of years.

FOURTH DEFENSE
(Laches)

51. Petitioner's claims are barred by the doctrine of laches. Under the doctrine of laches, Petitioner unreasonably delayed in bringing this action, resulting in undue prejudice against or to Registrant, including at least economic prejudice.

FIFTH DEFENSE
(Acquiescence)

52. Petitioner's claims are barred by the doctrine of acquiescence. Such actions

include Petitioner acquiescing to Registrant's ownership of the relevant registrations for several years prior to bringing this action, for at least the reason that Petitioner acquiesced to the subject registrations by and through the authorized acts of the entities in which Petitioner alleges an ownership interest.

SIXTH DEFENSE
(Lack of Standing)

53. Petitioner's claims are barred because the Petitioner's lacks standing to pursue to present action.

REQUEST FOR RELIEF

WHEREFORE, Registrant respectfully requests the entry of judgment against Petitioner and in favor of Registrant with such judgment providing the following relief:

(A) dismissing all of Petitioner's claims against Registrant and DENYING the Petition for Cancellation; and

(B) granting such other and further relief as is just and proper.

February 19, 2025

Respectfully submitted,

/ Jason A. Pittman /

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Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2025, I served a true and complete copy of the foregoing

ANSWER TO PETITION TO CANCEL on Petitioner via email as follows:

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