

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



Shaw's Supermarkets, Inc., )  
)  
Opposer, )  
)  
v. )  
)  
Shaw's Southern Belle Frozen Foods, Inc., )  
)  
)  
Applicant. )

07-22-2004  
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #78

Opposition No. 91160953  
Serial No. 78/156485  
Mark: SHAW'S PREMIUM  
SEAFOOD & DESIGN

**ANSWER**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

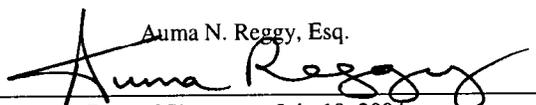
Honorable Commissioner:

Shaw's Southern Belle Frozen Foods, Inc. ("Applicant") hereby answers the Notice of Opposition filed in the above-styled Opposition proceeding by specifically responding to the numbered paragraphs thereof as follows:

In response to the unnumbered introductory paragraph, Applicant denies that Opposer is and will be damaged by the registration of the mark shown in Serial No. 78/156485. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in the introductory paragraph of the Notice of Opposition, and therefore, denies the same.

**Certificate of Mailing**  
**Date of Deposit: July 19, 2004**

I hereby certify that this Answer is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514.

Auma N. Reggy, Esq.  
  
Date of Signature: July 19, 2004

1. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 1 of the Notice of Opposition, and therefore, denies the same. In addition, Applicant specifically denies the allegations contained in the heading immediately preceding Paragraph 1 of the Notice of Opposition.

2. Applicant admits that a sampling of newspaper and magazine articles and advertising circulars and leaflets are attached to the Notice of Opposition, and as written documents, they speak for themselves. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 2 of the Notice of Opposition, and therefore, denies the same. In addition, Applicant specifically denies the allegations contained in the heading immediately preceding Paragraph 2 of the Notice of Opposition.

3. Applicant admits that copies of TESS printouts of various registrations and applications are attached to the Notice of Opposition, and as written documents, speak for themselves. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 3 of the Notice of Opposition, and therefore, denies the same. In addition, Applicant specifically denies the allegations contained in the heading immediately preceding Paragraph 3 of the Notice of Opposition.

4. Applicant admits that it filed an application to register the trademark SHAW'S PREMIUM SEAFOOD & DESIGN for use in connection with "value added seafood" on August 21, 2002; that the application was assigned Serial No. 78/156485; and that the mark was published in the Official Gazette on February 17, 2004. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 4 of the Notice of Opposition, and therefore, denies the same.

5. Applicant admits that it has applied to register the mark SHAW'S PREMIUM SEAFOOD & DESIGN for "value added seafood." Applicant admits that the word SHAW'S in Applicant's mark is identical to the word SHAW'S in some of Opposer's marks. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 5 of the Notice of Opposition, and therefore, denies the same. In addition, Applicant specifically denies the allegations contained in the heading immediately preceding Paragraph 5 of the Notice of Opposition.

6. Applicant admits that it seeks to register the mark SHAW'S PREMIUM SEAFOOD & DESIGN for "value added seafood." Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 6 of the Notice of Opposition, and therefore, denies the same. In addition, Applicant specifically denies the allegations contained in the heading immediately preceding Paragraph 6 of the Notice of Opposition.

7. Denied.

8. Denied.

Except as set forth herein, all other paragraphs, headings, and all other allegations contained in the Notice of Opposition are denied.

WHEREFORE, Applicant respectfully prays that:

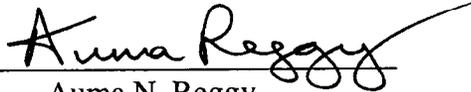
1. Opposer's Notice of Opposition be dismissed and that Applicant's mark proceed to registration; and

2. Applicant have such other and further relief as the Board deems just and proper.

This 19<sup>th</sup> day of July, 2004.

Respectfully submitted,

TROUTMAN SANDERS LLP

By: 

Auma N. Reggy  
Georgia Bar No. 599195  
Kenneth Southall  
Georgia Bar No. 668545

Attorneys for Applicant

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

|   |   |                         |
|---|---|-------------------------|
| Shaw's Supermarkets, Inc.,                | ) |                         |
|   | ) |                         |
| Opposer,                                  | ) |                         |
|   | ) | Opposition No. 91160953 |
| v.  | ) |                         |
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| Shaw's Southern Belle Frozen Foods, Inc., | ) |                         |
|   | ) | Mark: SHAW'S PREMIUM    |
|   | ) | SEAFOOD & DESIGN        |
| Applicant.                                | ) |                         |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer was sent by first class mail, postage prepaid to Attorney for Opposer Shaw's Supermarkets, Inc. as follows:

Christine M. Baker, Esq.  
c/o Mintz, Levin Cohn, Ferris, Glovsky and Popeo, P.C.  
666 Third Avenue  
New York, New York 10017

This 19<sup>th</sup> day of July, 2004.

  
Auma N. Reggy

# TROUTMAN SANDERS LLP

# TTAB

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A LIMITED LIABILITY PARTNERSHIP

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July 19, 2004

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Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514



07-22-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #78

**Re: Applicant: Shaw's Southern Belle Frozen Foods, Inc.**  
**Opposer: Shaw's Supermarkets, Inc.**  
**Opposition No.: 91160953**  
**Mark: SHAW'S PREMIUM SEAFOOD & DESIGN**

Honorable Commissioner:

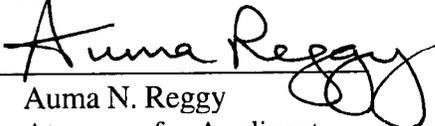
Enclosed please find the following documents for filing:

- (1) Applicant's Answer to the Notice of Opposition;
- (2) Certificate of Service; and
- (3) Return post card.

The Commissioner is hereby authorized to charge any fees that are deemed to be payable, to our Deposit Account No. 20-1507.

Respectfully submitted,

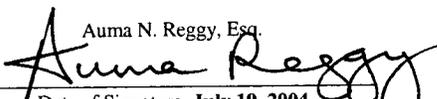
TROUTMAN SANDERS LLP

By:   
Auma N. Reggy  
Attorneys for Applicant

Enclosures

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Auma N. Reggy, Esq.  
Date of Signature: July 19, 2004

ATLANTA • HONG KONG • LONDON • NORFOLK • RICHMOND  
TYSONS CORNER • VIRGINIA BEACH • WASHINGTON, D.C.

TROUTMAN SANDERS LLP  
ATTORNEYS AT LAW  
A LIMITED LIABILITY PARTNERSHIP

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Commissioner for Trademarks  
July 19, 2004  
Page 2

bcc: Mr. Howard Shaw  
Mr. Allen Fendelman  
Arthur Yeager, Esq.