

ESTTA Tracking number: **ESTTA246499**

Filing date: **11/03/2008**

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

Proceeding	91183205
Party	Defendant CONAGRA FOODS RDM, INC.
Correspondence Address	Christopher M. Bikus Husch aBlackwell Sanders, LLP 1620 Dodge Street, Suite 2100 Omaha, NE 68102 UNITED STATES chris.bikus@huschblackwell.com,rachel.sloma@huschblackwell.com
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Date	11/03/2008
Attachments	SENSIBLE SWEETS ANSWER.11.3.08.pdf (5 pages)(658008 bytes)

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

SENSIBLE FOODS, LLC.)	
)	
Opposer,)	
)	Opposition No. 91183205
v.)	
)	MARK: SENSIBLE SWEETS
CONAGRA FOODS RDM, INC.)	
)	
Applicant.)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Box TTAB
Commission for Trademarks
P.O. Box 1451
Arlington, VA 22313-1451

ConAgra Foods, RDM, Inc. ("Applicant"), a Delaware corporation doing business at One ConAgra Drive, Omaha, Nebraska 68102, in answer to the Opposition of the Opposer, Sensible Foods, LLC ("Opposer"), states as follows:

1. Applicant admits that Opposer is listed as the owner of Registration No. 2,861,273 for the word mark SENSIBLE FOODS for goods in class 29; however, Opposer is without knowledge or information sufficient to form a belief as to the remaining allegations set forth in paragraph 1 of the Notice of Opposition and accordingly, denies the same.

2. Applicant admits that Opposer is listed as the owner of Registration No. 3,024,683 for the mark SENSIBLE FOODS for goods in class 29; however, Opposer is without knowledge or information sufficient to form a belief as to the remaining allegations set forth in paragraph 2 of the Notice of Opposition and accordingly, denies the same.

3. Applicant admits that Opposer is listed as the owner of Registration No. 3,252,283 for the mark SENSIBLE FOODS for goods in class 16; however, Opposer is without knowledge or information sufficient to form a belief as to the remaining allegations set forth in paragraph 3 of the Notice of Opposition and accordingly, denies the same.

4. Applicant admits that Opposer is listed as the owner of Registration No. 3,383,121 for the mark SNACKS MADE SENSIBLE for goods in class 29; however, Opposer is without knowledge or information sufficient to form a belief as to the remaining allegations set forth in paragraph 4 of the Notice of Opposition and accordingly, denies the same.

5. Applicant admits the allegations set forth in paragraph 5 of the Notice of Opposition.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6, and therefore, Applicant denies the allegations of paragraph 6.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7, and therefore, Applicant denies the allegations of paragraph 7.

8. Applicant admits the allegations set forth in paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations set forth in paragraph 9 of the Notice of Opposition.

10. Paragraph 10 of the Notice of Opposition calls for a legal conclusion to which no answer is required; to the extent an answer is required, Applicant denies the allegations set forth in paragraph 10.

11. Paragraph 11 of the Notice of Opposition calls for a legal conclusion to which no answer is required; to the extent an answer is required, Applicant denies the allegations set forth in paragraph 11.

12. Applicant denies the allegations set forth in paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations set forth in paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations set forth in paragraph 14 of the Notice of Opposition.

ANSWER TO ALL ALLEGATIONS

Applicant denies each and every allegation in the Notice of Opposition except as specifically admitted in this Answer.

First Affirmative Defense

1. The Notice of Opposition fails to state any basis under the Lanham Act to sustain an Opposition of the Applicant's Mark.

Second Affirmative Defense

2. Opposer's mark is highly diluted and weak when used in connection with Opposer's goods and Opposer's purported rights extend no further than to the specified mark that Opposer alleges it owns. Opposer's mark is not the same as or confusingly similar to Applicant's mark in terms of connotation, appearance and/or pronunciation.

Third Affirmative Defense

3. Applicant's use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

Fourth Affirmative Defense

4. Applicant's mark is sufficiently distinct from Opposer's mark to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's goods.

Fifth Affirmative Defense

5. Applicant's mark, when used in connection with Applicant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer, or as to the origin, sponsorship or approval of Applicant's goods by Opposer.

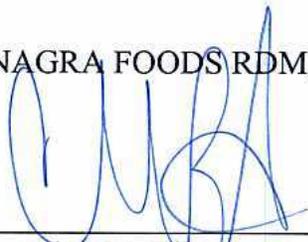
WHEREFORE, Applicant prays that:

- A. The Board refuses to sustain the Opposition of the Opposer;
- B. The Board finds that there is not basis in fact to support the Opposition of the Opposer;
- C. The Board dismiss this Opposition; and
- D. The Board grant such other and further relief as may be appropriate.

Dated this 3rd day of November, 2008.

CONAGRA FOODS RDM, INC.

By

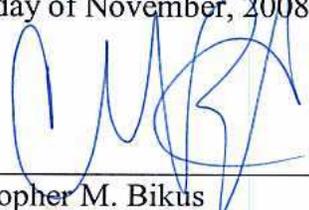


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ATTORNEYS FOR APPLICANT

CERTIFICATION UNDER 37 C.F.R. § 1.8

I hereby certify that APPLICANT'S ANSWER TO NOTICE OF OPPOSITION is being filed electronically with the United States Patent and Trademark Office utilizing the *Electronic System for Trademark Trials and Appeals* this 3rd day of November, 2008.



Christopher M. Bikus

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed first class, postage prepaid on this 3rd day of November, 2008 to the following:

David Baxes
Sensible Foods, LLC
P.O. Box 750832
Petaluma, CA 94975



Christopher M. Bikus