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

Proceeding	91192099
Party	Plaintiff McDonald's Corporation
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Date	11/18/2010
Attachments	Opposer_s_Expert_Disclosures.pdf ( 4 pages )(14373 bytes )

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

McDONALD’S CORPORATION,	)	
	)	Opposition No. 91192099
Opposer,	)	
	)	
v.	)	Mark: McSWEET
	)	Application S/N: 77/722,272
McSWEET, LLC,	)	Filed: April 24, 2009
	)	Published: September 1, 2009
Applicant.	)	

**OPPOSER’S EXPERT DISCLOSURES**

In accordance with Fed. R. Civ. P. 26(a)(2), 37 C.F.R. § 2.120(a), and the Board’s Order of April 21, 2010, McDonald’s Corporation (“Opposer”), by and through its attorneys, Neal, Gerber & Eisenberg, LLP, hereby makes the following disclosures:

**26(a)(2)(A)**: the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705.

**RESPONSE:**

Mr. Philip Johnson  
Chief Executive Officer  
Leo J. Shapiro & Associates, Inc.  
153 West Ohio Street, Suite 300  
Chicago, IL 60654

Opposer intends to submit the written report (and testimony, as necessary) of Mr. Johnson to support its claims that Applicant’s use of the term “McSweet” in connection with pickled vegetables causes confusion with and dilutes Opposer’s “Mc” family of marks.

Opposer will supplement this disclosure in the event that additional individuals are identified whom Opposer may use to provide evidence under Federal Rules of Evidence 702, 703, or 705 in this case

**26(a)(2)(B)**: a written report — prepared and signed by the witness — if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain:

- (i) a complete statement of all opinions the witness will express and the basis and reasons for them;
- (ii) the data or other information considered by the witness in forming them;
- (iii) any exhibits that will be used to summarize or support them;
- (iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;
- (v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
- (vi) a statement of the compensation to be paid for the study and testimony in the case.

**RESPONSE:**

Opposer has included herewith a copy of a written report, prepared and signed by Mr. Johnson, that provides a complete statement of all opinions he intends to express, and the basis and reasons for those opinions. In the event that Mr. Johnson determines a need to amend his written report, Opposer will supplement this disclosure with a copy of the amendment.

The written report includes: (i) data and other information considered by Mr. Johnson in forming his opinion, (ii) all exhibits to be used to summarize or support his opinion; (iii) Mr. Johnson's curriculum vitae listing his qualifications; (iv) a list of other cases in which Mr. Johnson has provided trial testimony as an expert in the last four years; and (v) a statement of the compensation that Mr. Johnson has been paid and is to be paid going forward for his services related to this case. Mr. Johnson has not authored any publications in the past ten years.

In addition to Mr. Johnson's written report, we have enclosed a list of all cases in which Mr. Johnson has provided deposition testimony as an expert in the last four years, as well as a copy of all materials provided by Opposer to Mr. Johnson for his review.

Respectfully submitted,

Dated: November 18, 2010

/John A. Cullis/  
One of the Attorneys for Applicant,  
McDonald's Corporation

Robert E. Browne, Esq.  
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**CERTIFICATE OF SERVICE**

I, Mike R. Turner, an attorney, hereby certify that I served a true and correct copy of the proceeding *Opposer's Expert Disclosures*, along with a copy of all attachments referenced therein, upon Applicant at its counsel's address at:

Katherine Hendricks  
HENDRICKS & LEWIS PLLC  
901 Fifth Ave., Ste 4100  
Seattle, WA 98164

via First Class U.S. Mail on this 18<sup>th</sup> day of November, 2010.

/Mike R. Turner/  
Mike R. Turner

**CERTIFICATE OF TRANSMISSION**

I, Mike R. Turner, an attorney, hereby certify that the proceeding *Opposer's Expert Disclosures*, less the attachments referenced therein, has been electronically transmitted to the Board via the Electronic System for Trademark Trials and Appeals ("ESTTA") at <http://estta.uspto.gov/> on the date noted below:

Date: November 18, 2010

By: /Mike R. Turner/  
One of the Attorneys for Applicant,  
McDonald's Corporation

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