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

Proceeding	91196061
Party	Defendant Sprinkles Cupcakes, Inc.
Correspondence Address	HOLLIS BETH HIRE WILSON SONSINI GOODRICH & ROSATI 650 PAGE MILL ROAD PALO ALTO, CA 94304-1050 UNITED STATES trademarks@wsgr.com
Submission	Answer
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Date	09/02/2010
Attachments	SPRINKLES CUPCAKES Cl 25 -- Answer.pdf (4 pages)(212372 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Soft Serve, Inc. d/b/a/ Sprinkles, Opposer, v. Sprinkles Cupcakes, Inc., Applicant.	)	Opposition No.: 91196061 APPLICANT'S ANSWER TO NOTICE OF OPPOSITION Serial No. 77/858599

Re: Mark: SPRINKLES CUPCAKES
Serial No.: 77/858599
International Class: 25
Filed: October 27, 2009
Published: April 6, 2010

Sprinkles Cupcakes, Inc. ("Applicant"), through its undersigned attorneys, hereby submits this Answer to the Notice of Opposition filed by Soft Serve, Inc. d/b/a Sprinkles ("Opposer") in the above-mentioned proceeding. Unless expressly admitted herein, each allegation contained in the Notice of Opposition is denied.

1. Applicant lacks information sufficient to admit or deny the allegations of Paragraph 1 of the Notice of Opposition, and therefore denies the allegations.

2. Applicant lacks information sufficient to admit or deny the allegations of Paragraph 2 of the Notice of Opposition, and therefore denies the allegations.

3. Applicant lacks information sufficient to admit or deny the allegations of Paragraph 3 of the Notice of Opposition, and therefore denies the allegations.

4. Applicant lacks information sufficient to admit or deny the allegations of Paragraph 4 of the Notice of Opposition, and therefore denies the allegations.

5. Applicant denies the allegations of Paragraph 5 of the Notice of Opposition, particularly insofar as Applicant has acquired enforceable legal rights from a third party.

6. Applicant denies the allegations of Paragraph 6 of the Notice of Opposition.

7. Applicant admits the allegations of Paragraph 7 of the Notice of Opposition.

8. Applicant denies the allegations of Paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations of Paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations of Paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations of Paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations of Paragraph 12 of the Notice of Opposition.

First Affirmative Defense

13. The Notice of Opposition fails to set forth facts sufficient to entitle Opposer to the relief sought.

Second Affirmative Defense

14. The Notice of Opposition is barred by the doctrine of laches.

Third Affirmative Defense

15. The Notice of Opposition is barred by the doctrines of waiver, acquiescence, and estoppel.

Fourth Affirmative Defense

16. As between the parties, Applicant has superior rights to the SPRINKLES mark and variations thereof. *See, e.g.*, Reg. Nos. 2938800 and 3004757.

Dated: September 2, 2010

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: _____
John L. Slafsky
Hollis Beth Hire

Attorneys for Applicant
Sprinkles Cupcakes, Inc.

Please address all communications concerning this proceeding to:

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Hollis Beth Hire
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CERTIFICATE OF SERVICE BY MAIL

I, Jo Ann Hylton, declare:

I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050.

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence would be deposited with the United States Postal Service on this date.

On this date, I served **APPLICANT'S ANSWER TO NOTICE OF OPPOSITION** on each person listed below, by placing the document described above in an envelope addressed as indicated below, which I sealed. I placed the envelope for collection and mailing with the United States Postal Service on this day, following ordinary business practices at Wilson Sonsini Goodrich & Rosati.

Thomas J. Vande Sande
Hall & Vande Sande, LLC
10220 River Road, Suite 200
Potomac, Maryland 20854

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on September 2, 2010.

Jo Ann Hylton