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

Proceeding	91196700
Party	Defendant California Farms, LLC
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Submission	Answer
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Date	11/08/2010
Attachments	Answer to Opposition - California Natural.pdf (6 pages)(30787 bytes)

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

LUBERSKI, INC. a California corporation and)	
Doing business as HIDDEN VILLA RANCH)	
)	
Opposer,)	Opposition No. 91196700
)	
v.)	Serial No. 77627139
)	
)	Mark:
California Farms, LLC dba California Farms,)	
a California limited liability company,)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

The following is the Answer of Applicant California Farms, LLC (“Applicant”) owner of Federal Trademark Application Serial No. 77627139 for the mark CALIFORNIA NATURAL CALIFORNIA PROUD depicted in the caption above, by and through Counsel, Perkins Williams Rice, PLLC, to the Notice of Opposition filed on September 30, 2010 by Luberski, Inc., (hereinafter “Opposers”), and assigned Opposition No. 91196700.

Applicant hereby responds, solely for the purpose of this proceeding, to each of the grounds set forth in the Notice of Opposition, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition.
2. Admitted to the extent the records of the U.S. patent and Trademark Office and Trademark Trial and Appeal Board substantiate the facts claimed.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Notice of Opposition.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Notice of Opposition.

6. Answering paragraph 6 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

7. Answering paragraph 7 of the Notice of Opposition, Applicant admits the allegations thereof.

8. Answering paragraph 8 of the Notice of Opposition, Applicant admits the allegations thereof.

9. Answering paragraph 9 of the Notice of Opposition, Applicant admits the allegations thereof.

10. Answering paragraph 10 of the Notice of Opposition, Applicant admits the allegations thereof.

11. Answering paragraph 11 of the Notice of Opposition, Applicant admits the allegations thereof.

12. Answering paragraph 12 of the Notice of Opposition, Applicant admits the allegations thereof.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Notice of Opposition.

14. Answering paragraph 14 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

15. Answering paragraph 15 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

16. Answering paragraph 16 of the Notice of Opposition, Applicant incorporates paragraphs 1 through 15 as fully set forth herein.

17. Answering paragraph 17 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

18. Answering paragraph 18 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

19. Answering paragraph 19 of the Notice of Opposition, Applicant incorporates paragraphs 1 through 18 as fully set forth herein.

20. Answering paragraph 20 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

21. Answering paragraph 21 of the Notice of Opposition, Applicant incorporates paragraphs 1 through 20 as fully set forth herein.

22. Answering paragraph 22 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

23. Answering paragraph 23 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

24. Answering paragraph 24 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

In addition, Applicant sets forth the following affirmative defenses and statements in support of its position:

25. Applicant affirmatively alleges that its design mark is unique and distinctive.

26. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception as Applicant's mark and the pleaded marks of Opposer are not confusingly similar. Any similarity, if at all, between Applicant's mark and the pleaded marks of Opposer is in the portion "California" which, upon information and belief, has been used in trademarks registered by numerous third parties in the sale of farm products.

27. Applicant further affirmatively alleges that there is no likelihood of dilution by blurring because Opposer's and Applicant's marks are not sufficiently similar.

28. Applicant further affirmatively alleges that the pleaded marks of Opposer are descriptive and Applicant's use is permitted under 15 U.S.C. § 1115.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board deny the Opposition and permit registration of Applicant's proposed mark in Application Serial Number 77627139 in the United States Patent and Trademark Office.

Dated this 8th day of November, 2010.

By: /s/ J. Steven Rice
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition connected with Opposition No. 91196700 has been served on opposing counsel by emailing and by mailing said copy on November 8, 2010, via First Class Mail, postage prepaid to the attorney for Opposer at the following address:

Darryl J. Horowit
Coleman & Horowitt, LLP
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/s/ J. Steven Rice
J. STEVEN RICE

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this Answer to Notice of Opposition submitted in connection with Opposition No. 91196700 is being filed electronically today, November 8, 2010, on the Electronic System for Trademark Trials and Appeals for the United States Patent and Trademark Office.

/s/ J. Steven Rice

J. STEVEN RICE