

ESTTA Tracking number: **ESTTA496336**

Filing date: **09/25/2012**

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

Proceeding	91202219
Party	Plaintiff Eat Right Foods Ltd.
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Date	09/25/2012
Attachments	Notice of Reliance No. 5.pdf (2 pages)(1104825 bytes)

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

EAT RIGHT FOODS LTD.,

Opposer,

v.

KEVIN LEVILLE,

Applicant.

Opp. No.: 91202219

Ser. No.: 77/868,068

Date of Publication:
April 26, 2011

OPPOSER EAT RIGHT FOODS LTD.'S
NOTICE OF RELIANCE NO. 5

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to 37 C.F.R. § 2.122(e) and 704.08(b) of the Trademark Trial and Appeal Board Manual of Practice and Procedure, Opposer Eat Right Foods Ltd. provides Notice of Reliance on material published on the Internet at <http://shop.eatright.co.nz/shopn/SP/1825393542.216/pv=EATRI.pg=10413.sg=,co=BIS>, accessed and publicly available on September 24, 2012, submitted herewith. The material being offered is relevant to Opposer's use of its registered marks in commerce, the goods upon which Opposer uses its registered marks, the channels of trade in which Opposer markets and sells such goods, and the retail price of such goods.

Dated: September 25, 2012.

Respectfully Submitted,
SHARTSIS FRIESE LLP

By: _____



JOSEPH V. MAUCH

Attorneys for Opposer
EAT RIGHT FOODS LTD.

Free delivery within Nelson City area. For other destinations see postage information.



Giant Afghans / Mini Afghans
Egg Free, Nut Free

A biscuit for all occasions: morning tea, your lunch box, afternoon tea or just "on the go". The delicious combination of crunchy wheat flakes, fair-trade certified organic cocoa and 70% cocoa mass chocolate chunks. US\$ 1.37 to 5.33



Nut Corner

You can get addicted to this triangle: a crisp almond flavoured short pastry topped with a blend of spray free walnuts and certified organic spices, folded in a meringue and coated with dark chocolate. US\$ 1.94 to 5.67



Gingernuts

Gluten, Wheat, Nut & Egg free

What else can we say, they are divine. US\$ 3.06 to 5.33



Moritz Cookie

Nut free

Taking its name from the famous Swiss mountains this biscuit has mountainous amounts of chocolate and a hint of cinnamon to give it some extra.... US\$ 1.37 to 5.33



Yogi Cookie

Gluten, Wheat, Nut & Egg free

This one takes a lot of beating - delightful bite sized cookie with apricots and pineapple juice and hand dipped in yoghurt. There are six in the packet so they are great for sharing or, because they are so morish, you might even want to eat the lot yourself. US\$ 3.06 to 5.33



Rice & Spice Cookie

Gluten, wheat, dairy, soy, egg, nut and peanut free US\$ 1.37



Choc-Holics Cookie

65% less sugar than an average cookie.

Gluten, Wheat, Dairy, Egg & Nut Free.

Just as the name suggests, this cookie is for all you chocolate lovers out there.

As well as its delicious and rich chocolate taste, it is free from many food allergens - making it a divine combination and must have treat. US\$ 1.62 to 5.35



Ginger Cookie

Gluten & Wheat free; Dairy free, Soy free, Egg free; Nut free, High in Fibre, fully certified organic GMO/GE free.

If you love our Gingernuts, then you are going to love our brand new Ginger Cookies. As well as the divine taste.

US\$ 1.37 to 5.33