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Filing date: **08/24/2012**

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

Proceeding	91206116
Party	Defendant Amy's Ice Creams, Inc.
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Submission	Answer
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Signature	/WCL/
Date	08/24/2012
Attachments	2012-08-24 Answers to Notices of Opposition.pdf (6 pages)(19407 bytes)

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

AMY'S KITCHEN, INC.,	§	
	§	
Opposer,	§	Opposition No. 91206116
v.	§	
	§	Serial No. 85127037
AMY'S ICE CREAMS, INC.,	§	MARK: AMY'S ICE CREAMS
	§	
Applicant.	§	
	§	

ANSWER TO NOTICE OF OPPOSITION

Amy's Ice Creams, Inc. ("Applicant"), a Texas corporation with its principal place of business at 2109 Northland Drive, Austin, Texas 78756, responds to the Notice of Opposition as follows. The paragraph numbers below correspond to those in the Notice of Opposition.

1. Admitted.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies them. Applicant specifically denies that the comparison of Applicant's filing date with Opposer's first use date has any relevance, and in any event, Applicant's first use date is prior to Opposer's first use date.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies them.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies them, except Applicant admits that Opposer is listed as the record owner of the named registrations in the United States Patent and Trademark Office trademark database.

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

6. Applicant admits that Opposer is listed as the record owner of two suspended applications (Serial Nos. 85/339,258 and 85/339,245) in the United States Patent and Trademark Office trademark database (the “Suspended Applications”). Applicant denies the remaining allegations in this paragraph.

7. Applicant admits that the Suspended Applications have been suspended by the Patent and Trademark Office based on Applicant’s prior pending applications for AMY’S ICE CREAMS in word and design form (Serial Nos. 85/127,071 and 85/127,037), but denies that Opposer’s marks are well known and that Opposer is entitled to register its marks for candy bars or cookies. Applicant denies the remaining allegations in this paragraph.

8. Denied.

9. Denied.

10. Denied.

Applicant expressly reserves the right to plead affirmative and other defenses or counterclaims should any such defenses or claims be revealed by any discovery in this case.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed and judgment be entered in favor of Applicant.

Dated: August 24, 2012

Respectfully submitted,

/Wendy C. Larson/

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ATTORNEYS FOR APPLICANT
AMY'S ICE CREAMS, INC.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served by first class mail on August 24, 2012 upon Opposer's attorney:

Donald L. Beeson
Kathleen A. Skinner
Beeson Skinner Beverly, LLP
One Kaiser Plaza, Suite 750
Oakland, CA 94612

/Wendy C. Larson/

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

AMY'S KITCHEN, INC.,	§	
	§	
Opposer,	§	Opposition No. 91206116
v.	§	
	§	Serial No. 85127071
AMY'S ICE CREAMS, INC.,	§	MARK: AMY'S ICE CREAMS and
	§	Design
Applicant.	§	
	§	

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