

ESTTA Tracking number: **ESTTA538256**

Filing date: **05/16/2013**

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

Proceeding	91210242
Party	Defendant Norseland Incorporated
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Date	05/16/2013
Attachments	20127175_1.pdf(13779 bytes)

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

Fromageries Bel and Bel Brands USA, Inc.,

Opposers,

-v-

Norseland Incorporated,

Applicant.

Opposition No. : 91210242
Serial No. : 85614831
Filed: : May 2, 2012
Published : October 16, 2012

Trademark : **UNLOCK A SMILE!
and Design**

ANSWER TO NOTICE OF OPPOSITION

Applicant, Norseland Incorporated, by and through its undersigned counsel, hereby answers and asserts affirmative defenses to the Notice of Opposition (the "Notice") as follows:

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

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

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

4. Applicant admits that the U.S. Trademark Registration Nos. 3,441,441 and 3,472,994 are registered in the name of Bel Brands USA, Inc., and U.S. Trademark Registration No 3,879,288 is registered in the name of Fromageries Bel. Applicant is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations set forth in this paragraph and, therefore, denies same.

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

6. Admitted.

7. Opposer has failed to identify its trade dress. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph and, therefore, denies same.

8. Applicant cannot respond to the allegations set forth in this paragraph because Opposer has failed to properly identify its trade dress. Thus, Applicant denies the allegations set forth in this paragraph.

9. Denied.

10. Applicant denies that its mark is confusingly similar to any of Opposer's marks identified in this Notice of Opposition. Applicant admits that it intends to use its mark in connection with cheese in Class 29.

11. Denied.

12. Applicant denies that its mark so resembles Bel's SMILES registrations and well-known marks, as used in the United States and not abandoned, as to be likely to cause confusion, or mistake or to deceive. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in this paragraph and, therefore, denies same.

13. Denied.

14. Applicant denies that a stylized representation of the small round cheese opening with a strip, as applied to a product consisting of a small round cheese encased in wax or another substance that opens by pulling off a strip, is capable of functioning as a protectable trade dress and, therefore, denies the allegations set forth in this paragraph.

15. Denied.

16. Denied.

WHEREFORE, Applicant respectfully prays that this Board dismiss the Notice, remand the Application for issuance of the registration, and grant such other relief as the Board deems just and proper.

AFFIRMATIVE DEFENSES

1. Opposer fails to properly allege a claim for trademark or trade dress dilution in contravention of F.R.C.P. 12(b)(6).

2. Opposer fails to properly allege a claim for trade dress infringement in contravention of F.R.C.P. 12(b)(6).

3. Opposer fails to otherwise set forth a claim upon which relief may be granted.

4. Opposer is barred from relief based on its alleged trade dress claim because such trade dress, as described in the Notice of Opposition, is functional.

5. Opposer is barred from relief under the equitable principles of laches, acquiescence, and estoppel.

Dated: May 16, 2013

By: /Perla Kuhn/
Perla Kuhn
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Attorney for Opposer

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CERTIFICATE OF SERVICE

I hereby certify that I am over the age of 18 years, not a party to this action, and that on the 16th day of May, 2013, I caused to be served a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION by First Class Mail to the following attorney for the Opposer:

Jess M. Collen
Lisa A. McAndrews
COLLEN *IP*
The Holyoke-Manhattan Building
80 South Highland Ave.
Ossining, NY 10562

I further certify under penalty of perjury that the foregoing is true and correct.

Dated: New York, NY
May 16, 2013

By: */Varant Ekmekjian/*
Varant Ekmekjian