

ESTTA Tracking number: **ESTTA550849**

Filing date: **07/28/2013**

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

Proceeding	91211206
Party	Defendant Molkerei Alois MAÏller GmbH & Co. KG
Correspondence Address	JAMES R. MEYER SCHNADER HARRISON SEGAL & LEWIS LLP 1600 MARKET ST STE 3600 PHILADELPHIA, PA 19103-7286  trademarks@schnader.com
Submission	Answer
Filer's Name	JAMES R MEYER, ESQ.
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Signature	/JAMES R MEYER/
Date	07/28/2013
Attachments	Answer to NOPP.pdf(162604 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Before the Trademark Trial and Appeal Board**

Opposition No.                    91211206  
IN RE:                                Application No. 85675252  
Trademark:                         FrütUp  
Opposer:                             Andros  
Applicant:                          Molkerei Alois Mueller GmbH & Co. KG  
Attorney Docket No:            3011696-0005/02

**ANSWER TO NOTICE OF OPPOSITION**

Commissioner for Trademarks  
Alexandria, VA 22313-1451

Dear Sir or Madam:

Applicant answers the Notice of Opposition as follows.

1.        Denied that the mark of the application is “FRUT UP”; otherwise admitted.
  
2.        Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment and therefore denies same.
  
3.        Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment and therefore denies same.
  
4.        Admitted that Exhibit A is as represented. Applicant is without knowledge or information sufficient to form a belief as to the accuracy of the information shown in Exhibit A and therefore denies same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment and therefore denies same.

6. Admitted that Exhibit A is as represented. Applicant is without knowledge or information sufficient to form a belief as to the accuracy of the information shown in Exhibit A and therefore denies same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of this averment and therefore denies same.

8. Denied.

9. Denied.

10. Denied.

**WHEREFORE**, Opposer requests that this opposition be dismissed.

Respectfully submitted,

SCHNADER HARRISON SEGAL & LEWIS LL



Dated: July 28, 2013 By:

James R. Meyer  
1600 Market Street, Suite 3600  
Philadelphia, PA 19103  
(215) 751-2622 (voice)  
trademarks@schnader.com (e-mail authorized)

ATTORNEYS FOR APPLICANT

**Certification Under 37 CFR 1.8**

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first-class mail under 37 CFR 1.8 on the date indicated below addressed to:

Julie B. Seyler, Esq.  
Abelman, Frayne & Schwab  
666 Third Ave.  
NYC, NY 10017

An additional copy is being sent by e-mail to Ms. Seyler at [JBSeyler@lawabel.com](mailto:JBSeyler@lawabel.com).



Dated: July 28, 2013

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JAMES R. MEYER