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

Proceeding	91215657
Party	Defendant GoYoGo Frozen Yogurt LLC
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Date	05/12/2014
Attachments	Ans to opp.pdf(215324 bytes)

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

In the Matter of Trademark Application Serial No. 86060111

For the mark:



Filed September 10, 2013

In the Matter of Trademark Application Serial No. 86037364

For the mark: GoYoGo Frozen Yogurt

Our Ingredients, Your Creation

Filed August 14, 2013

GOYA FOODS, INC.,

Opposer,

v.

GOYOGO FROZEN YOGURT LLC,

Applicant.

Opposition No. 91215657

ANSWER TO NOTICE OF OPPOSITION

GoYoGo Frozen Yogurt LLC (“GoYoGo” or “Applicant”) responds to the notice of opposition filed by Goya Foods, Inc. as follows:

1. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 1 of the opposition.
2. GoYoGo is without knowledge or information sufficient enough to form a belief as to the statements contained in paragraph 2 of the opposition.
3. The statements contained in paragraph 3 of the opposition are admitted.

4. The statements contained in paragraph 4 of the opposition are admitted.
5. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 5 of the opposition.
6. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 6 of the opposition.
7. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 7 of the opposition.
8. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 8 of the opposition.
9. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 9 of the opposition.
10. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 10 of the opposition.
11. No response is necessary as paragraph 11 of the opposition has been omitted.
12. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 12 of the opposition.
13. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 13 of the opposition.
14. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 14 of the opposition.
15. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 15 of the opposition.
16. GoYoGo denies the statements contained in paragraph 16 of the opposition.

17. GoYoGo denies the statement contained in paragraph 17 of the opposition.

COUNT I

LIKELIHOOD OF CONFUSION

18. GoYoGo denies the statements contained in paragraph 18 of the opposition.

19. GoYoGo denies the statements contained in paragraph 19 of the opposition.

20. GoYoGo denies the statement contained in paragraph 20 of the opposition.

COUNT II

DILUTION

21. GoYoGo incorporates by reference the statements contained in paragraphs 1 through 20.

22. GoYoGo denies the statements contained in paragraph 22 of the opposition.

23. GoYoGo denies the statements contained in paragraph 23 of the opposition.

24. GoYoGo is without knowledge or information sufficient to form a belief as to the statements contained in paragraph 24 of the opposition.

COUNT III

FRAUD IN THE USPTO

25. GoYoGo incorporates by reference the statements contained in paragraphs 1 through 24.

26. GoYoGo denies the statements contained in paragraph 26 of the opposition.

27. GoYoGo denies the statements contained in paragraph 27 of the opposition.

28. GoYoGo denies the statements contained in paragraph 28 of the opposition.

29. GoYoGo denies the statements contained in paragraph 29 of the opposition.

30. GoYoGo denies the statements contained in paragraph 30 of the opposition.

31. GoYoGo denies the statements contained in paragraph 31 of the opposition.

32. GoYoGo denies the statements contained in paragraph 32 of the opposition.

33. GoYoGo denies the statements contained in paragraph 33 of the opposition.

34. GoYoGo denies the statements contained in paragraph 34 of the opposition.

COUNT IV

NO BONA FIDE INTENT TO USE

35. GoYoGo incorporates by reference the statements contained in paragraphs 1 through 34.

36. GoYoGo denies the statements contained in paragraph 36 of the opposition.

37. GoYoGo denies the statements contained in paragraph 37 of the opposition.

38. GoYoGo denies the statements contained in paragraph 38 of the opposition.

39. GoYoGo denies the statements contained in paragraph 39 of the opposition.

40. GoYoGo denies the statements contained in paragraph 40 of the opposition.

41. GoYoGo denies the statements contained in paragraph 41 of the opposition.

42. Admitted.

Wherefore, applicant GoYoGo requests the Board to dismiss the opposition proceeding with prejudice and allow applicant's mark to proceed to registration.

SEPARATE DEFENSES

First Separate Defense

Goya fails to state a cause of action for which relief can be granted.

Second Separate Defense

The marks “GOYOGO FROZEN YOGURT, OUR INGREDIENTS YOUR CREATION” and



(collectively the “GoYoGo Marks”) are dissimilar in appearance, sound and meaning from the following marks identified in opposition

GO GOYA
GOYA
GOYO
... IF IT IS GOYA IT HAS TO BE GOOD
... IF IT IS GOYA IT HAS TO BE GOOD and design
SI ES GOYA TINE QUE SER BUENO
JOYAS DE GOYA
GOYA LATIN CAFÉ

(collectively the “Goya Marks”).

Third Separate Defense

There is no likelihood of confusion between the GoYoGo Marks and the Goya Marks.

Fourth Separate Defense

One or more of the Goya Marks are not famous and therefore is not likely to be diluted.

Fifth Separate Defense

The products sold under the GoYoGo Marks are different from the products sold under the Goya Marks.

Sixth Separate Defense

The products sold under the GoYoGo Marks are sold in channels of commerce different from the Goya Marks.

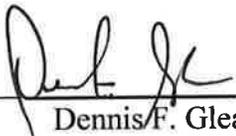
Seventh Separate Defense

The GoYoGo Marks have been and continue to be used in commerce.

Wherefore, GoYoGo requests that the Board dismiss with prejudice the opposition of Goya and allow Applicant's marks to proceed to registration.

Respectfully submitted,

May 12, 2014

By: 
Dennis F. Gleason

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Attorneys for Applicant
GoYoGo Frozen Yogurt LLC

CERTIFICATE OF SERVICE

I, Dennis F. Gleason, certify that on May 12, 2014, a copy of the Answer of GoYoGo Frozen Yogurt LLC to the Opposition was served by first class mail on

Stephen L. Baker
Baker and Rannells, PA
575 Route 28, Suite 102
Raritan, NJ 08869

May 12, 2014


Dennis F. Gleason