

ESTTA Tracking number: **ESTTA691324**

Filing date: **08/24/2015**

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

Proceeding	91222878
Party	Defendant Quality Fresh Farms, Inc.
Correspondence Address	QUALITY FRESH FARMS INC 2416 W SHAW AVE STE 114 FRESNO, CA 93711-3303 UNITED STATES gbillan@qualityfreshfarms.net
Submission	Answer
Filer's Name	Sherrie M. Flynn
Filer's e-mail	sflynn@ch-law.com, nalshikhaiti@ch-law.com
Signature	/Sherrie M. Flynn/
Date	08/24/2015
Attachments	AnswertoOpposition_4Filing.pdf(76649 bytes)

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

WONDERFUL CITRUS LLC f/k/a)
PARAMOUNT CITRUS LLC;)
)
Opposer,)
)
v.)
)
QUALITY FRESH FARMS, INC.;)
)
Applicant.)
_____)

Opposition No. 91222878
Serial No. 86/375,060
Mark: Q + Design



QUALITY FRESH FARMS, INC.’S
ANSWER TO WONDERFUL CITRUS
LLC f/k/a PARAMOUNT CITRUS
LLC’S OPPOSITION

ANSWER

Applicant, QUALITY FRESH FARMS, INC. (“Applicant”), in response to the Opposition of WONDERFUL CITRUS LLC f/k/a PARAMOUNT CITRUS LLC (“Opposer”) hereby admits, denies and alleges as follows:

1. Answering the allegations of Paragraph 1, Applicant lacks sufficient information or belief to answer the allegations of Paragraph 1 of the Opposition, and basing its denial on that ground, generally and specifically denies each and every allegation contained therein.

2. Answering the allegations of Paragraph 2, Applicant admits that the U.S. Patent and Trademark Office’s Trademark Electronic Search System indicates that Paramount Citrus LLC is the owner of registration number 3934863 (“Registration”) for “Fresh citrus fruits” and that the Registration indicates that Paramount Citrus LLC claims a “First Use on Commerce” date of June 1, 2008. Applicant lacks sufficient information or belief to answer the remaining allegations of

Paragraph 2, and basing its denial on that ground, generally and specifically denies each and every remaining allegation contained therein.

3. Answering the allegations of Paragraph 3, Applicant admits that it filed an application for registration (“Application”) of a design mark comprising the word mark “Q” (inappropriately characterized by Opposer as the “Quality Fresh Circle Leaf Mark”) on August 22, 2014, in International Class 31 for “Fresh fruits and vegetables,” and in International Class 39 for “Warehousing services, namely, storage, distribution, pick-up, packing, and shipping of fresh fruits and vegetables” (serial number 86/375,060; the “Quality Fresh Mark”), with a date of first use as early as September 12, 2012, and a date of first use in interstate commerce at least as early as September 17, 2012.

4. Answering the allegations of Paragraph 4, Applicant lacks sufficient information or belief to answer the allegations of Paragraph 4 of the Opposition, and basing its denial on that ground, generally and specifically denies each and every allegation contained therein.

5. Answering the allegations of Paragraph 5, Applicant denies it is using the Quality Fresh Mark in Class 32. Applicant lacks sufficient information or belief to answer the remaining allegations of Paragraph 5 of the Opposition, and basing its denial on that ground, generally and specifically denies each and every allegation contained therein.

6. Answering the allegations of Paragraph 6, Applicant admits that it used the Quality Fresh Mark at least as early as the September 12, 2012 first use date set forth in the Application. Applicant lacks sufficient information or belief to answer the remaining allegations of Paragraph 6 of the Opposition, and basing its denial on that ground, generally and specifically denies each and

every allegation contained therein.

7. Answering the allegations of Paragraph 7, Applicant contends that Paragraph 7 does not contain any averments of facts to which an answer is required, but insofar as an answer may be required, Applicant generally and specifically denies each and every allegation contained therein.

8. Answering the allegations of Paragraph 8, Applicant generally and specifically denies each and every allegation contained therein.

AFFIRMATIVE DEFENSES

1. As for a first affirmative defense, the Opposition, and each and every grounds therein, is barred by the doctrine of laches.

2. As for a second affirmative defense, Opposer is estopped by its own conduct from obtaining any relief.

3. As for a third affirmative defense, the Opposition, and each and every grounds therein, is barred by the doctrine of waiver.

4. As for a fourth affirmative defense, the Opposition, and each and every grounds therein, is barred by the doctrine of acquiescence.

Applicant reserves the right to amend, add or strike affirmative defenses as discovery ensues or due to any inadvertence. Defendant further reserves the right to raise affirmative defenses and admit such as a defense at trial, which are subsequently discovered through the discovery process.

RELIEF REQUESTED

In view of the foregoing, Applicant contends that this Opposition is groundless and that Opposer cannot show it will be, or is likely to be, damaged by the registration of Applicant's

trademark. There is no likelihood of confusion, mistake or deception because of the significant differences in Applicant's mark and the pleaded mark of Opposer.

WHEREFORE, Applicant prays judgment as follows:

1. Opposer take nothing by way of its Opposition;
2. The Board deny Opposer's Opposition in its entirety;
3. Applicants registration application for the "Q" design mark, Serial No. 86/375,060, be allowed; and
4. For such other and further relief as the Board may deem just and proper.

Respectfully submitted,

Dated: August 24, 2015

By: /Sherrie M. Flynn/
SHERRIE M. FLYNN
COLEMAN & HOROWITT, LLP
499 West Shaw Avenue, Suite 116
Fresno, California 93704
(559) 248-4820
sflynn@ch-law.com
*Attorneys for QUALIFY FRESH
FARMS, INC.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Answer to Opposition to Application Serial No. 86/375,060, in re: Quality Fresh Farms, Inc.'s Q + Design mark, was forwarded by First Class Mail delivery, by depositing the same with the United States Postal Service on this 24th day of August, 2015, to the attorney for Applicant at the following address:

Darya P. Laufer, Esq.
Roll Law Group, P.C.
11444 W. Olympic Blvd, Floor 7
Los Angeles, CA 90064

/Naji Alshikhaiti/
NAJI ALSHIKHAITI

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this Answer to Opposition to registration of the mark in Application, Serial No. 86/375,060 is being filed electronically today, August 24, 2015, on the Electronic System for Trademark Trials and Appeals for the United States Patent and Trademark Office.

/Sherrie M. Flynn/
SHERRIE M. FLYNN