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

Proceeding	91228936
Party	Plaintiff Popeyes Louisiana Kitchen, Inc.
Correspondence Address	CHRISTIANE S CAMPBELL DUANE MORRIS LLP 30 SOUTH 17 STREET PHILADELPHIA, PA 19103 UNITED STATES ccampbell@duanemorris.com, kckline@duanemorris.com, tdmkatlanta@duanemorris.com, ipdocketing@duanemorris.com
Submission	Answer to Counterclaim
Filer's Name	Christiane S. Campbell
Filer's e-mail	ccampbell@duanemorris.com
Signature	/Christiane S. Campbell/
Date	09/08/2016
Attachments	Noosa Opposition PLKI Answer to Counterclaims.pdf(248025 bytes)

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

In the matter of Trademark Application Serial No. 86/735022
Filed: August 24, 2015
For the mark: SWEET HEAT
Published in the Official Gazette on: March 15, 2016

POPEYES LOUISIANA KITCHEN, INC. :

Opposer :

v. :

NOOSA YOGHURT, LLC :

Applicant :

Opposition No: 91228936

ANSWER TO APPLICANT'S COUNTERCLAIMS

Opposer, Popeyes Louisiana Kitchen, Inc., filed on July 13, 2016 a Notice of Opposition to registration of Applicant Noosa Yoghurt, LLC's U.S. Application Serial No. 86/735,022, covering the mark SWEET HEAT for yoghurt and yoghurt-based products in the nature of beverages and dips, in International Class 29. With its Answer, filed July 29, 2016, Applicant raised Counterclaims for cancellation of Popeyes' asserted U.S. Registrations Nos. 1,563,625 and 4,170,198.

In answer to Applicant's Counterclaims, Popeyes, through its counsel, responds as follows:

Count I: Fraud on the U.S. Patent and Trademark Office

1. Paragraph 1 contains no allegations that require a response.

2. Admitted.
3. Opposer admits that its predecessor-in-interest filed a combined Section 8 and 9 Declaration of Use with the USPTO in connection with U.S. Reg. No. 1,563,625 on April 27, 2010 and that Opposer's predecessor-in-interest's Senior Vice President of Legal Affairs and General Counsel, Harold M. Cohen, signed a sworn statement in connection with this Declaration, stating that "the mark is in use in commerce on or in connection with the goods" identified in the Registration.
4. Admitted.
5. Denied.
6. Denied.
7. Denied.
8. Denied.
9. Denied.
10. Admitted.
11. Opposer admits that in this application which became U.S. Reg. No. 4,170,198, Opposer's predecessor-in-interest claimed that it was currently using the mark SWEET HEAT in connection with all the goods and services listed in the application. The application was accompanied by a sworn declaration signed by Michelle P. Gallon, Opposer's predecessor-in-interests counsel.

12. Denied.
13. Denied.
14. Denied.
15. Denied.
16. Denied.
17. Denied.
18. Applicant is without sufficient knowledge or information on which to form a belief as to the truth of Applicant's allegations set forth in Paragraph 18.
19. Denied.

Count II: Abandonment

20. Paragraph 20 contains no allegations that require a response.
21. Denied.
22. Denied.
23. Denied.
24. Denied.
25. Applicant is without sufficient knowledge or information on which to form a belief as to the truth of Applicant's allegations set forth in Paragraph 25.

26. Denied.

WHEREFORE, Opposer requests that the Opposition be sustained and that Applicant's Application Serial No. 86/735,022 be denied registration.

Respectfully submitted,

DUANE MORRIS LLP

By: Christiane S. Campbell
Christiane S. Campbell

Dated: September 8, 2016

Attorneys for Opposer,
Popeyes Louisiana Kitchen, Inc.

Christiane S. Campbell
30 South 17th Street
Philadelphia, PA 19103
(tel) 215.979.1817
(fax) 215.979.1020
ccampbell@duanemorris.com

CERTIFICATE OF SERVICE

I, Christiane S. Campbell, Esq., counsel to Popeyes Louisiana Kitchen, Inc. in the above-captioned proceeding, hereby certify that, on the 8th day of September, 2016, I served a copy of the foregoing Answer, by first class mail (postage prepaid), upon the following individual identified in the Subject Application as the attorney of record and the correspondent:

Bassam N. Ibrahim
Buchanan Ingersoll & Rooney PC
1737 King St Ste 500
Alexandria, Virginia 22314-2727

With a courtesy copy sent via e-mail to bassam.ibrahim@bipc.com

By: /Christiane S. Campbell/
Christiane S. Campbell