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

Proceeding	92057776
Party	Defendant Paul Janavs
Correspondence Address	PAUL JANA VS 4350 VON KARMAN AVENUE, 4TH FLOOR NEWPORT BEACH, CA 92660 UNITED STATES
Submission	Answer
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Date	10/04/2013
Attachments	Answer.pdf(30891 bytes )

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

GNU FOODS, LLC, )  
)  
Petitioner, )  
v. )  
) **Cancellation No. 92057776**  
PAUL JANA VS )  
)  
Respondent. )  
\_\_\_\_\_)

**ANSWER AND AFFIRMATIVE DEFENSES**

Paul Janavs (“Respondent”), by and through his counsel, hereby answers the Petition for Cancellation filed by Gnu Foods, LLC (“Petitioner”), against Registration No. 4284101 for the mark LOVE MY FIBER, as follows:

1. Answering Paragraph 1, Respondent denies the allegations therein.
2. Answering Paragraph 2, Respondent admits the allegations therein.
3. Answering Paragraph 3, Respondent states that Application Serial No. 85/453695 was published in the official Gazette on March 13, 2012, and on May 8, 2012, the United States Patent and Trademark Office (the “USPTO”) issued a Notice of Allowance on the application. Respondent denies the remaining allegations of Paragraph 3.
4. Answering Paragraph 4, Respondent states that on October 31, 2012, Respondent filed a Statement of Use for “ready to eat, cereal derived food bars” (“Respondent’s Goods”) in Application Serial No. 85/453695, along with a specimen consisting of packaging for the LOVE MY FIBER product. Respondent states that the Statement of Use identifies the first use date of the LOVE MY FIBER mark in connection with

Respondent's Goods by Respondent as early as March 11, 2012, and the first use date in commerce at least as early as August 23, 2012, and that the mark was in use as of the date of the Statement of Use. Respondent states that on October 31, 2012, Respondent requested that the USPTO divide out the goods "ready-to-eat cereals." Respondent denies the remaining allegations of Paragraph 4.

5. Answering Paragraph 5, Respondent admits the allegations therein.

6. Answering Paragraph 6, Respondent admits the allegations therein.

6. Answering Second Paragraph 6, Respondent states on June 10, 2013, the USPTO issued a Notice of Abandonment of Application Serial No. 85/453695 for "ready-to-eat cereals." Respondent states it has not filed a petition to revive Application Serial No. 85/453695. Respondent denies the remaining allegations of Second Paragraph 6.

7. Answering Paragraph 7, Respondent states that the listed application speaks for itself. Respondent has insufficient knowledge or information as to the truth of the allegations of Paragraph 7 and therefore denies them.

8. Answering Paragraph 8, Respondent states that the USPTO has refused registration of Application Serial No. 85/851356 because of, *inter alia*, a likelihood of confusion with Respondent's registered mark LOVE MY FIBER. Respondent has insufficient knowledge or information as to the truth of the remaining allegations of Paragraph 8 and therefore denies them.

9. Answering Paragraph 9, Respondent has insufficient knowledge or information as to the truth of the allegations of Paragraph 9 and therefore denies them.

10. Answering Paragraph 10, Respondent denies the allegations therein.

11. Answering Paragraph 11, Respondent denies the allegations therein.

12. Answering Paragraph 12, Respondent denies the allegations therein.

13. Respondent repeats his answers contained in Paragraphs 1-12 above as if fully set forth herein.

14. Answering Paragraph 14, Respondent states this paragraph contains legal conclusions to which no response is required. To the extent a response is required, Respondent denies the allegations of Paragraph 14.

15. Answering Paragraph 15, Respondent states that on October 31, 2012, Respondent filed a Statement of Use for “ready to eat, cereal derived food bars” (“Respondent’s Goods”) in Application Serial No. 85/453695, along with a specimen consisting of packaging for the LOVE MY FIBER product. Respondent states that the Statement of Use identifies the first use date of the LOVE MY FIBER mark in connection with Respondent’s Goods by Respondent as early as March 11, 2012, and the first use date in commerce at least as early as August 23, 2012, and that the mark was in use as of the date of the Statement of Use. Respondent denies the remaining allegations of Paragraph 15.

15. Answering Second Paragraph 15, Respondent denies the allegations therein.

16. Answering Paragraph 16, Respondent denies the allegations therein.

17. Respondent repeats his answers contained in paragraphs 1-16 above as if fully set forth herein.

18. Answering Paragraph 18, Respondent states that on October 31, 2012, Respondent filed a Statement of Use for “ready to eat, cereal derived food bars” (“Respondent’s Goods”) in Application Serial No. 85/453695, along with a specimen consisting of packaging for the LOVE MY FIBER product. Respondent states that the

Statement of Use identifies the first use date of the LOVE MY FIBER mark in connection with Respondent's Goods by Respondent as early as March 11, 2012, and the first use date in commerce at least as early as August 23, 2012, and that the mark was in use as of the date of the Statement of Use. Respondent denies the remaining allegations of Paragraph 18.

19. Answering Paragraph 19, Respondent denies the allegations therein.

20. Answering Paragraph 20, Respondent denies the allegations therein.

21. Answering Paragraph 21, Respondent denies the allegations therein.

22. Answering Paragraph 22, Respondent denies the allegations therein.

23. Answering Paragraph 23, Respondent denies the allegations therein.

Unless specifically admitted in this Answer, all allegations in the Petition for Cancellation are denied. Respondent denies Petitioner is entitled to the relief which it seeks and requests the dismissal of Cancellation No. 9205776, with prejudice, and that Registrant be rewarded such other and further relief as the Trademark Trial and Appeal Board deems proper.

#### **Affirmative Defenses**

In further answer to the Petition to Cancel, Registrant asserts the following affirmative defenses:

Affirmative Defense No. 1: The Petition for Cancellation fails to state a claim upon which relief may be granted.

Affirmative Defense No. 2: The Petition for Cancellation is barred due to Petitioner's unclean hands.

Registrant reserves the right to rely on such other and further affirmative defenses as may be supported by the facts to be determined through full and complete discovery and to amend his Answer to assert such affirmative defenses.

Respectfully submitted,

Dated: October 4, 2013

By: /avd/  
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### **Certificate of Service**

The undersigned hereby certifies that copy of this paper has been served upon all parties, at their address of record by First Class Mail on this date, as follows:

Michael Chiappetta, Esq.  
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Dated: October 4, 2013

Respectfully submitted,

/avd/

Amanda V. Dwight