



06-07-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #71

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

<b>The B. Manischewitz Company, LLC</b>	*	<b>Opposition No. 91151477</b>
<b>Petitioner-Opposer,</b>	*	<b>Serial No: 76-144,393</b>
<b>vs.</b>	*	
<b>Four Seasons Fruit Soup, Corp.</b>	*	<b>TM: Four Seasons Fruit Soup</b>
<b>Respondent-Applicant.</b>	*	

\* \* \* \* \*

**Box TTAB No Fee  
Commissioner For Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513**

**ANSWER OF RESPONDENT-APPLICANT**

Now comes Four Seasons Fruit Soup, Corp., by and through its duly authorized representative and President, Paulette D. Hardin, and responds to the Notice of Opposition filed by the B. Manischewitz Co., LLC, as follows:

**FIRST DEFENSE**

1. The allegation contained in paragraph 1 of the Notice of Opposition is admitted.
2. The allegations contained in paragraphs 2, 3, 4, 5, 6, and 7 of the Notice of Opposition are denied for want of knowledge or information sufficient

from which to form a belief as to the truth thereof. Further, the allegations contained in paragraphs 2, 3, 4, 5, 6, and 7 are denied to the extent the same are not expressly admitted herein. Further, Opposer failed to attached Exhibits 1, 2, and 3 as averred in said Notice of Opposition.

3. The allegations contained in paragraphs 8, 9, 10, 11 and 12 of the Notice of Opposition are denied.

#### **SECOND DEFENSE**

4. The Opposer has failed to join the necessary parties.

#### **THIRD DEFENSE**

5. The Opposer is barred by the doctrines of estoppel, unclean hands and/or laches.

#### **FOURTH DEFENSE**

6. The Opposer does not manufacture a fruit soup. There being no competition between products, no instances of actual confusion of the buying public between products exist or can exist.

#### **FIFTH DEFENSE**

7. Plaintiff has alleged in Paragraph 12 of Opposition that it will be gravely damaged by the registration of Four Seasons Fruit Soup. However, since no actual competition between specific products exists, the alleged damage is not probable.

#### **SIXTH DEFENSE**

8. The word "Season" or "Four Season" is in common use. Many trademarks for food and/or food related services have the word "Season"

or "Four Season" as a component and have been registered by the United States Patent and Trademark Office subsequent to the date of issuance of registration for Opposer's trademark "Season".

**SEVENTH DEFENSE**

9. Opposer's line of food products is not similar to that of Respondent's food product of fruit soup. Therefore, there is not a likelihood of confusion, mistake or deception as to the origin of Applicant's goods.

**EIGHTH DEFENSE**

10. The trademark of Applicant is descriptive of, and used fairly and in good faith to describe to consumers the goods and services of Applicant. Further, the name of Applicant's Mark is used and describes purpose of Applicant's primary business objectives.

**WHEREFORE**, Respondent-Applicant respectfully requests that the Notice of Opposition be dismissed with prejudice and the registration of Four Seasons Fruit Soup be granted to applicant.

Respectfully Submitted,


A handwritten signature in cursive script that reads "Paulette D. Hardin, President". The signature is written in black ink and is positioned above the typed name and title.

Paulette D. Hardin, Authorized Representative/President  
FOUR SEASONS FRUIT SOUP, CORP.  
150 North Ridge Avenue  
Troy, Ohio 45373  
(937) 335-9796

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer has been mailed to the following individual by certified mail on the 7<sup>th</sup> day of June, 2002:

Martin J. Beran, Esq.  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Customer No. 2352

  
Paulette D. Hardin, Authorized Representative  
FOUR SEASONS FRUIT SOUP, CORP

PDH/em

TTAB



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**FOUR SEASONS FRUIT SOUP, CORP**

**150 NORTH RIDGE AVENUE**

**TROY, OHIO 45373**

**Phone: (937) 335-9796 • Fax: (937) 497-1583**

**TO: Box TTAB No Fee  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513**

**DATE: June 7, 2002**

**RE: B. Manischewitz Co., LLC vs. Four Seasons Fruit Soup, Corp.  
Opposition No. 91151477: Serial No. 76-144,393**

- The enclosed is for your information and files.
- If the enclosed meets with your approval, please sign and return it to my office.
- Please file the enclosed on our behalf and forward a file-stamped copy to my office.
- Please review the enclosed and contact my office.
- Please contact my office for an appointment and/or telephone conference.
- Other- \_\_\_\_\_

TRADEMARK TRIAL AND  
APPEAL BOARD  
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***Please find the Enclosed:***

- Answer and/or Counterclaim
- Agreed Judgment Entry
- Complaint
- Copy of \_\_\_\_\_
- Entry \_\_\_\_\_
- Interrogatories -- \_\_\_\_\_ Set
- Motion \_\_\_\_\_
- Notice of \_\_\_\_\_
- Request for Production of Documents
- A stamped, self-addressed envelope for your convenience.
- Other - \_\_\_\_\_

If you have any questions, please call my office. Thank you for your attention in this matter.

Sincerely,

Paulette D. Hardin, Authorized Representative and President  
Four Season Fruit Soup, Corp.