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Filing date: **07/12/2006**

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

|                        |  |
|------------------------|--|
| Proceeding             | 91170678   |
| Party                  | Defendant<br>Foreign Candy Company, Inc., The<br>Foreign Candy Company, Inc., The<br>1 Foreign Candy Drive<br>Hull, IA 51239                   |
| Correspondence Address | THOMAS C WETTACH<br>COHEN & GRIGSBY PC<br>11 STANWIX ST 15TH FL<br>PITTSBURGH, PA 15222<br><br>iptrademark@cohenlaw.com, twettach@cohenlaw.com |
| Submission             | Answer   |
| Filer's Name           | Thomas C. Wettach  |
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| Signature              | /Thomas C. Wettach/  |
| Date                   | 07/12/2006   |
| Attachments            | 05019Brief.pdf ( 4 pages )(16682 bytes )   |

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

In the matter of Application Serial No. 78/545,560  
For the Trademark **SANTA POPS**  
Published in the Official Gazette on November 1, 2005

|                                 |   |                         |
|---------------------------------|---|-------------------------|
| CHARMS MARKETING COMPANY        | ) |                         |
|                                 | ) |                         |
| Opposer,                        | ) |                         |
|                                 | ) | Opposition No: 91170678 |
| vs.                             | ) |                         |
|                                 | ) |                         |
| THE FOREIGN CANDY COMPANY, INC. | ) |                         |
|                                 | ) |                         |
| Applicant.                      | ) |                         |
| _____                           | ) |                         |

**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION**

In response to the Notice of Opposition filed by Charms Marketing Company (herein referred to as "Charms"), Applicant, The Foreign Candy Company, Inc. is a corporation organized and existing under the laws of the State of Iowa, having a principal mailing address of 1 Foreign Candy Drive, Hull, Iowa 51239, by and through its undersigned appointed counsel, hereby answers as follows:

1. Applicant admits the averments of Paragraph 1 of the Notice of Opposition.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 2 and, therefore, denies same.
3. Applicant denies the averment of Paragraph 3 of the Notice of Opposition; to the contrary, Applicant believes that the goods sold in connection with the SANTA POPS mark originates with Applicant.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 4 and therefore denies same

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 5 and therefore denies same, except that Applicant admits that filed United States Trademark Application Serial No. 78/545,560 for SANTA POPS.

6. Applicant denies that the goods of Charms are identical to the goods recited in Application Serial No. 78/545,560, but Applicant admits that they are likely to be in the same channels of trade and to the same consumers as Charms' goods.

7. Applicant denies the averments of Paragraph 7 of the Notice of Opposition.

8. Applicant admits the averments of Paragraph 8 of the Notice of Opposition that Applicant's SANTA POPS and Charms' SANTA POPS are identical, but denies that the commercial impression is identical.

9. Applicant denies the averments of Paragraph 9 of the Notice of Opposition.

10. Applicant denies the averments of Paragraph 10 of the Notice of Opposition.

11. Applicant denies the averments of Paragraph 11 of the Notice of Opposition.

**AFFIRMATIVE DEFENSES**

12. Applicant reserves the right to plead affirmative defences after a reasonable opportunity to complete discovery.

WHEREFORE, Applicant respectfully requests the Notice of Opposition be denied and dismissed in its entirety, and Applicant's Mark be promptly registered.

Respectfully submitted,

By: /Thomas C. Wettach/

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Attorney for Applicant

Dated: July 12, 2006

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION related to Opposition No. 91170678 is being served electronically to Douglas R. Wolf, Wolf, Greenfield & Sacks, P.C., 600 Atlantic Avenue, Boston, MA 02210 and electronically to [drwtrademarks@wolfgreenfield.com](mailto:drwtrademarks@wolfgreenfield.com) this 12<sup>th</sup> day of July 2006.

/Thomas C. Wettach/  
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