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

Proceeding	91179464
Party	Defendant Fuqua Pecans, LLC
Correspondence Address	FUQUA PECANS, LLC 201 SICILY ST HARRISONBURG, LA 71340-4000 UNITED STATES davef@ptssolutions.com
Submission	Answer
Filer's Name	JAMES D. FUQUA
Filer's e-mail	davef@ptssolutions.com
Signature	/DaveFuqua/
Date	12/14/2007
Attachments	Answers to Interogatories.pdf (3 pages)(104568 bytes) Response to request for first admission.pdf (3 pages)(104230 bytes) Response to request for production.pdf (4 pages)(112609 bytes) Pecan 3.pdf (1 page)(15799 bytes)

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

Dayton Nut Specialties, Inc	:	
	:	
Opposer	:	Opposition No. 1179464
	:	
vs	:	
	:	
Fuqua Pecans, LLC	:	
	:	
Applicant	:	

Application Subject ofOpposition: Serial No. 77/012,333 Application Filed on: October 3,2006 For the Mark: Redneck Nuts Published in the *Official Gazette (Trademarks) on:* May 15,2007.

Answers to Applicant's First Set of Interrogatories

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice (37 C.F.R. § 2.120), Fuqua Pecans, LLC (hereinafter, "Applicant"), serves its Answers to the Opposer's First Set of Interrogatories upon Opposer Dayton Nut Specialties, Inc. (hereinafter, "Opposer") answered fully in writing under oath.

Answer to Interrogatory No.1
Fuqua Pecans is an LLC, formed in 2006, owned by James D. Fuqua, Regina D. Fuqua, Jeffrey D. Fuqua and Cherie Fuqua.

Answer to Interrogatory No.2
None
Answer to Interrogatory No.3
In-shell and Cracked Pecans
Answer to Interrogatory No.4
Fuqua Pecans is a producer of improved varieties of pecans. The "Redneck Nuts" trademark is to establish a brand synonymous with the pecans produced by Fuqua Pecans.
Answer to Interrogatory No.5
Dave Fuqua searched the USPTO database using the website search engine in October 2006 and found that "Redneck Nuts" was not a registered trademark.
Answer to Interrogatory No.6
Less than $200
Answer to Interrogatory No.7
Fliers
Answer to Interrogatory No.8
Inshell Pecans $500, Cracked pecans - $1500
Answer to Interrogatory No.9

Internet and local Newspapers
Answer to Interrogatory No.10
Unknown at this time.
Answer to Interrogatory No.12
Unknown at this time.
Answer to Interrogatory No.13
From the following:

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Apr 25, 2007
PUBLICATION DATE: May 15, 2007

SERIAL NUMBER:	**77012333**
MARK:	**REDNECK NUTS**
OWNER:	**Fuqua Pecans, LLC**

Answer to Interrogatory No.14
A google search on "redneck" turns up about 1,080,000 hits
Answer to Interrogatory No.15
It is our understanding that there is a significant difference between use of and first use of any trademark.
Answer to Interrogatory No.16
It is our understanding that there is a significant difference between use of and first use of any trademark.
Answer to Interrogatory No.17
It is our understanding that there is a significant difference between use of and first use of any trademark.
Answer to Interrogatory No.18
It is our understanding that there is a significant difference between use of and first use of any trademark.
Answer to Interrogatory No.19
It is our understanding that there is a significant difference between use of and first use of any trademark.
Answer to Interrogatory No.20
It is our understanding that there is a significant difference between use of and first use of any trademark.
Answer to Interrogatory No.21
We did not apply for "Redneck". We applied for "Redneck Nuts".
Answer to Interrogatory No.22
A google search on "redneck" turns up about 1,080,000 hits
Answer to Interrogatory No.23
It is our understanding that there is a significant difference between use of and first use of any trademark.

Answer to Interrogatory No.24
See revised Answer
Answer to Interrogatory No.25
No
Answer to Interrogatory No.26
James D. Fuqua
Answer to Interrogatory No.25
None

Respectfully Submitted

DAVE FUQUA

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Answers to Applicant's First Set of Interrogatories** has been sent to: ALPRIN LAW OFFICES, 1260 21st Street, N.W., Suite 702, Washington, D.C. 20036, by e-mailing said copy to trademarks@alprinlaw.com on December 14, 2007.

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

Dayton Nut Specialties, Inc	:	
Opposer	:	Opposition No. 1179464
vs	:	
Fuqua Pecans, LLC	:	
Applicant	:	

Application Subject of Opposition: Serial No. 77/012,333 Application Filed on: October 3,2006 For the Mark: Redneck Nuts Published in the *Official Gazette (Trademarks) on:* May 15,2007.

Response First Request for Admissions

Pursuant to Rule 36(a) of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice(37C.F.R.§2.120), Fuqua Pecans, LLC (hereinafter, "Applicant") responds to the First Request for Admissions upon Applicant, filed by Opposer Dayton Nut Specialties, Inc. (hereinafter, "Opposer"), to respond to the following:

(1) Applicant has, as of yet, never sold its goods under the name "Redneck Nuts."
Applicant sold goods using the "Redneck Nut" label in 2006.

(2) Applicant's mark should not be registered if Opposer can show that the use of its mark predates Applicant's use of its mark.

Applicant opposes unless the Opposer can show use of "Redneck Nuts"

(3) Applicant has not been granted registration by the United States Patent and Trademark Office for its mark that is the subject of Ser. No. 77/012,333.

Applicant acknowledges.

(4) Opposer's application (Ser. No. 76/672,188) for its mark has not been finally refused registration by the United States Patent and Trademark Office.

Applicant acknowledges.

(5) Applicant did not consult an attorney knowledgeable in trademark law in preparing and filing its Answer.

Applicant acknowledges.

(6) Applicant believes that all persons and companies should be allowed to use the term "Redneck" in connection with any good that it sells.

Applicant acknowledges that anyone should be allowed to use "redneck" whose use pre-dates the Opposer.

(7) Opposer's common law rights in the name "REDNECK" for nuts has not been superseded by decades, in spite of this assertion as set forth in Applicant's Answer.

Applicant denies.

(8) Applicant's mark and Opposer's mark are virtually identical in sound, cadence, appearance, connotation and commercial impression.

Applicant denies. A search of the registered trademarks on the TESS website for "united" shows numerous trademarks that start with the word united combined with other words. The precedent for registering these trademarks with "united" followed by different words is identical to the Applicants.

(9) It is possible for Opposer to sell goods that are not offered on its website.

Applicant acknowledges.

(10) Applicant's goods and Opposer's goods are closely related.

Applicant denies.

(11) Applicant's goods and Opposer's goods are sold, or would be sold, through similar trade channels.

Applicant acknowledges.

(12) Applicant's use and registration of its mark would violate Opposer's common law rights.

Applicant denies.

(13) Opposer's customers and Applicant's customers would be likely to be confused if Opposer's mark and Applicant's mark were allowed to coexist.

Applicant denies.

(14) Opposer would be damaged if Applicant were allowed to register and use its "Redneck Nuts" mark.

Applicant denies.

(15) Applicant knew about Opposer's products sold under the name "REDNECK" prior to filing Applicant's application for Applicant's mark.

Applicant denies.

Respectfully Submitted

DAVE FUQUA

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Answers to Applicant's First Set of Interrogatories** has been sent to: ALPRIN LAW OFFICES, 1260 21st Street, N.W., Suite 702, Washington, D.C. 20036, by e-mailing said copy to trademarks@alprinlaw.com on December 13, 2007.

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

Dayton Nut Specialties, Inc	:	
	:	
Opposer	:	Opposition No. 1179464
	:	
vs	:	
	:	
Fuqua Pecans, LLC	:	
	:	
Applicant	:	

Application Subject of Opposition: Serial No. 77/012,333 Application Filed on: October 3,2006 For the Mark: Redneck Nuts Published in the *Official Gazette (Trademarks) on:* May 15,2007

Response to Requests for Production

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice(37C.F.R.§2.120), Fuqua Pecans, LLC (hereinafter, "Applicant") responds to the First Request for Production of Document and Things upon Applicant, filed by Opposer Dayton Nut Specialties, Inc. (hereinafter, "Opposer"), to produce the following documents and things for inspection and copying, along with a written response to this request.

1. All documents and things referring or relating to the creation and selection of Applicant's trademark.

Answer – all documents are available on the US Patent TradeMark Office Website.

2. All search reports and investigation reports prepared by or for Applicant which refer to, relate to, or comment upon Opposer's trademark or Applicant's trademark.

Answer – All searches were done on the US Patent TradeMark OfficeWebsite.

3. All federal and state service mark applications filed by or on behalf of Applicant for Applicant's trademark, and all documents referring or relating to any such applications or resulting registrations.

Answer – all federal documents are available on the US Patent TradeMark OfficeWebsite. No state documents were filled.

4. All documents referring or relating to Applicant's selling of goods under Applicant's trademark.

Answer – all documents are available on the Patent TradeMark Office Website.

5. All documents and things pertaining to use by third parties of Applicant's trademark.

Answer – None

6. All documents and things referring or relating to, or comprising any challenges Applicant has ever made to any third party, or comprising any challenges any third party has ever made to Applicant, concerning Applicant's trademark.

Answer – None

7. All documents and things referring or relating to any court or Patent and Trademark Office proceeding filed by Applicant or filed against Applicant in connection with Applicant's trademark.

Answer – all documents are available on the US Patent TradeMark Office Website

8. Specimens of all advertising and promotional documents bearing Applicant's trademark, including brochures, catalogues, circulars, leaflets, direct mail pieces, newspaper and magazine advertisements, commercials, telephone book advertisements, price lists, trade association listings, annual reports, and any other material such as labels, tags, packages, containers, decals, stamps, and name plates used by Applicant, its distributors, or other sellers of its products or services.

Answer – see attached label

9. All documents identifying the publications and broadcast media in which Applicant has advertised, is advertising, or has planned to advertise any of its products or services bearing or sold under Applicant's trademark.

Answer – all documents are available on the US Patent TradeMark Office Website.

10. Copies of all television commercials, radio scripts, and other media advertising not previously requested in which Applicant's trademark appears or is mentioned.

Answer - None

11 . All documents and things referring or relating to or commenting upon Opposer's advertising or promotional expenditures for any services rendered under Opposer's trademark.

Answer – None

12. All documents referring or relating to or comprising Applicant's customer lists, prospective customer lists, and mailing lists for products offered and sold under Applicant's trademark.

Answer – Retail only at this time

13. All documents referring or relating to or comprising any consumer or market survey, test, or study Applicant has conducted or has caused to be conducted regarding the public's or the trade's recognition of or reaction to Applicant's trademark or to Opposer's trademark.

Answer – None

14. All documents referring or relating to or comprising any opinion from counsel, whether or not such counsel was employed by Applicant, concerning Applicant's rights to its trademark, including without limitation, all documents identifying the date of any such opinion and the attorney rendering the opinion, or discussing any action Applicant may have taken, or considered taking, in reliance upon said opinion.

Answer – None

15. All documents referring or relating to or comprising any analyses, studies, or reports relating to the Applicant's goods as sold or intended to be sold under Applicant's trademark, including but not limited to, business plans, marketing plans, development plans, financial plans, and budgetary plans.

Answer – None

16. All documents referring or relating to or comprising any plan Applicant has or has had to expand the type of goods it offers for sale under its trademark.

Answer – None

17. All documents referring or relating to or evidencing or comprising any inquiry, investigation, or survey conducted by or on behalf of Applicant regarding any issues involved in this opposition proceeding.

Answer – None

18. All statements or opinions of any expert retained by Applicant or any person acting for or on behalf of Applicant regarding any of the issues involved in this opposition proceeding.

Answer – None

19. All document substantiating Applicant's intention to use its mark.
Answer – See label.

20. All copies of each press release that you have issued containing the word "Redneck."

Answer – None

21. All documents, other than those produced in response to any of the foregoing requests, identified by Applicant in its responses to Opposer's First Set of Interrogatories.

Answer – None

22. All documents, other than those produced in response to any of the foregoing requests, upon which Applicant intends to rely in connection with this proceeding.

Answer – None at this time

23. All documents used by Applicant to make legal determinations in responding to Opposer's Notice of Opposition and discovery requests.

Answer – None

Respectfully Submitted

DAVE FUQUA

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Answers to Applicant's First Set of Interrogatories** has been sent to: ALPRIN LAW OFFICES, 1260 21st Street, N.W., Suite 702, Washington, D.C. 20036, by e-mailing said copy to trademarks@alprinlaw.com on December 13, 2007.

FUQUA PECANS, LLC
Home of

REDNECK NUTS™