

ESTTA Tracking number: **ESTTA363040**

Filing date: **08/13/2010**

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

Proceeding	91194379
Party	Plaintiff Cornfields, Inc.
Correspondence Address	RICHARD B. BIAGI NEAL & MCDEVITT, LLC 1776 ASH STREET NORTHFIELD, IL 60093 UNITED STATES pto@nealmcdevitt.com
Submission	Answer to Counterclaim
Filer's Name	Jeremy M. Roe, Esq.
Filer's e-mail	pto@nealmcdevitt.com
Signature	/Jeremy M. Roe/
Date	08/13/2010
Attachments	20100813 Answer to Counterclaim.pdf (4 pages)(17006 bytes)

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

*In the matter of Trademark Application No. 77/780,921
For the Mark SKINNY MUNCH – Int. Class 30
Filed on July 14, 2009
Published on December 1, 2009*

_____)	
CORNFIELDS, INC.)	
)	
Opposer,)	
)	Opposition No. 91194379
v.)	
)	
ADEENA WEISS,)	
d/b/a SKINNY MUNCH CORP.)	
)	
Applicant.)	
)	
_____)	

OPPOSER’S ANSWER TO APPLICANT’S COUNTERCLAIM

CORNFIELDS, INC. (hereinafter “Opposer”), hereby Answers Applicant ADEENA WEISS d/b/a SKINNYMUNCH CORP.’s (hereinafter “Applicant”) Counterclaim for Cancellation of Opposer’s Mark.

ANSWER

Genericness of Opposer’s Mark

Applicant’s Counterclaim Paragraph 1(a): Opposer’s mark SKINNY is generic in that: (a) It lacks evidence of secondary meaning in the term or mark[.]

Opposer’s Answer: Opposer denies the allegations in Paragraph 1(a).

Applicant's Counterclaim Paragraph 1(b): Opposer's mark SKINNY is generic in that: (b) Opposer's past failure to protect its rights[.]

Opposer's Answer: Opposer denies the allegations in Paragraph 1(b).

Applicant's Counterclaim Paragraph 1(c): Opposer's mark SKINNY is generic in that: (c) Absence of objections to misuse of the mark by others[.]

Opposer's Answer: Opposer denies the allegations in Paragraph 1(c).

Applicant's Counterclaim Paragraph 1(d): Opposer's mark SKINNY is generic in that: (d) Absence of attempts to prevent misuse of mark by others[.]

Opposer's Answer: Opposer denies the allegations in Paragraph 1(d).

Applicant's Counterclaim Paragraph 1(e): Opposer's mark SKINNY is generic in that: (e) Use of term or mark as common noun rather than adjective descriptive of particular brand by Opposer owner, by competitor, by other members of relative trade or profession, by newspapers, magazines, or other general publications, and/or by relevant section of buying public.

Opposer's Answer: Opposer denies the allegations in Paragraph 1(e).

AFFIRMATIVE DEFENSES

Further answering the Counterclaim, Opposer pleads the following affirmative defenses:

1. Applicant's claim fails to state a claim upon which relief can be granted.
2. Applicant's recovery is barred by the doctrine of unclean hands.
3. Applicant's claim is barred in whole or in part by the doctrine of waiver.
4. Applicant's claim is barred by the doctrine of estoppel.
5. Applicant's claim is barred in whole or in part because it has not been damaged by any act or omission on the part of Opposer.

6. Opposer respectfully reserves the right to amend its Answer to the Counterclaim to add such additional defenses as may be disclosed during discovery in this matter.

Date: August 13, 2010

Respectfully submitted,

By: /s/ Jeremy M. Roe

Richard B. Biagi, Esq.
Jeremy M. Roe, Esq.
NEAL & MCDEVITT, LLC
1776 Ash Street
Northfield, Illinois 60093
Tel. – 847.441.9100
Fax. – 847.441.0911

*Attorneys for Opposer,
Cornfields, Inc.*

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Opposer, hereby certifies that a true and correct copy of the foregoing OPPOSER'S ANSWER TO APPLICANT'S COUNTERCLAIM was served by deposit with the United States Postal Service, First Class, upon:

Adeena Weiss
28 East Jackson Blvd. #10A
Chicago, IL 60604-2263

Correspondent for Applicant

on this 13th day of August, 2010.

/s/ Jeremy M. Roe

One of the Attorneys for Opposer