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

Proceeding	91194379
Party	Defendant Adeena Weiss d/b/a Skinny Munch Corp.
Correspondence Address	ADEENA WEISS 28 E JACKSON BLVD., #10A CHICAGO, IL 60604-2263 UNITED STATES adeenajw@aol.com
Submission	Motion to Strike
Filer's Name	Adeena J. Weiss
Filer's e-mail	adeenajw@aol.com
Signature	/s/ Adeena J. Weiss
Date	09/08/2010
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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 of SKINNY MUNCH ? Int. Class 30  
Filed on July 14, 2009  
Published on December 1, 2009  
CORNFIELDS, INC., )

)  
Opposer, )

) Opposition No.

\_\_\_\_\_ )  
v. )

ADEENA WEISS, )  
d/b/a SKINNY MUNCH CORP., )

)  
)  
Applicant. )  
)

APPLICANT'S MOTION TO STRIKE OPPOSER'S AFFIRMATIVE DEFENSES

NOW COMES APPLICANT, Adeena Weiss, and for her Motion to Strike  
Opposer's Affirmative Defenses, states as follows:

1. On September 3, 2010, Opposer filed its Answer and Affirmative Defenses to Applicant's Counter claim.
2. Opposer states that Applicant has (1) failed to state a claim upon which relief can be granted, (2) been barred by the doctrine of unclean hands, (3) been barred by the doctrine of waiver, (4) been barred by the doctrine of estoppel, (5) been barred because it has suffered no damages, as Opposer's affirmative defenses.
3. The Board upon motion, or upon its own initiative, at any time, may strike from a pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. See T.B.M.P. Section 506.01-02. The Board may also strike a defense that is not clearly apparent or if it raises factual issues. See. T.B.M.P. Section 506.01.
4. In the instant matter, each one of Opposer's affirmative defenses should be stricken as they are insufficient, redundant, immaterial, impertinent, scandalous and/or not clearly apparent and/or raise factual issues. See T.B.M.P. 506.01, footnote 98.
5. With regard to Opposer's first affirmative defense for failure to state a claim, Opposer has failed to state how Applicant's claim is defective, and thus is not clearly apparent.
6. With regard to Opposer's second affirmative defense of unclean hands. Opposer has failed to state how Applicant has come into this matter with unclean hands. Opposer's affirmative defense is scandalous and only made to prejudice the Board against Applicant. Accordingly, this defense must be stricken as it is overwhelmingly prejudicial against Applicant. Opposer's makes this defense in bad faith and without due inquiry.
7. With regard to Opposer's third affirmative defense of waiver, yet again Opposer has failed to state how waiver has been asserted. This defense can only be asserted after discovery. No discovery has been conducted. Opposer's makes this defense in bad faith, prematurely and without due inquiry.

8. With regard to Opposer's forth affirmative defense of estoppel, Opposer failed to state how Applicant is stopped. Presumably because there is no evidence nor facts that Applicant is in fact estopped. Again, this defense, as the others, is made in bad faith, without basis or due inquiry, made solely to prejudice Applicant and is premature.
9. With regard to Opposer's fifth affirmative defense that Applicant has not been damaged, how can Opposer in good faith make this defense when it has not conducted discovery and thus has no knowledge if Applicant has been damaged, which it has.
10. While applicant recognizes notice pleading requirement, Opposer's affirmative defenses are so deficient, scandalous, insufficient and/or raise factual issues, that Applicant respectfully requests that they be stricken.
11. Opposer's affirmative defenses are mere legal conclusions, unsupported by any evidence, facts or inquiry made by Opposer.
12. For the Board to allow these defenses to stand is prejudicial to Applicant.

WHEREFORE, Applicant respectfully requests that Opposer's affirmative defense be stricken and for any other relief that is just and proper.  
Date: September 8, 2010

Respectfully submitted,

By: /s/ Adeena J. Weiss

Adeena J. Weiss  
28 East Jackson Boulevard, #10A847  
Chicago, IL 60604  
Telephone: 312.437.9347  
Fax: 312.733.2351  
Applicant

#### CERTIFICATE OF SERVICE

The undersigned, an attorney, deposes and states that she has caused a true and correct copy of the foregoing APPLICANT'S MOTION TO STRIKE OPPOSER'S AFFIRMATIVE DEFENSES was served by deposit with the United States Postal Service, First Class, upon:

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

on this 8 day of September, 2010.

By: /s/ Adeena J. Weiss

Applicant