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Filing date: **12/07/2010**

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

Proceeding	91197194
Party	Defendant Promotion In Motion, Inc.
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Attachments	SUNNY FRUITS (PIM) - Answer 120710.pdf (4 pages)(151247 bytes)

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

In re Application Serial No. 77/886,225
Filed: December 4, 2009
For Mark: SUNNY FRUITS
Published in the Official Gazette: May 4, 2010

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KELLOGG NORTH AMERICA COMPANY, : Opposition No. 91197194
: :
Opposer, : :
: : **ANSWER**
v. : :
: :
PROMOTION IN MOTION, INC., : :
: :
Applicant. : :
-----X

Applicant Promotion In Motion, Inc. (“Applicant”), as and for its Answer to the Notice of Opposition filed by Opposer Kellogg North America Company (“Opposer”), alleges as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition, except admits that Opposer is listed as record owner in the USPTO of the cited registrations. Further answering the allegations of paragraph 3 of the Notice of Opposition, Applicant respectfully refers the Board to the cited

registrations, which documents speak for themselves, in response to all allegations pertaining to information concerning such registrations.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Notice of Opposition.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Notice of Opposition.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Notice of Opposition.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Notice of Opposition.

9. Admits the allegations contained in paragraph 9 of the Notice of Opposition, except denies knowledge or information sufficient to form a belief as to the allegation that Opposer had rights in and to Opposer's SUN Marks and the SUNNY name and that Applicant filed its application "notwithstanding" such alleged rights.

10. Denies the allegations contained in paragraph 10 of the Notice of Opposition.

11. Denies the allegations contained in paragraph 11 of the Notice of Opposition.

12. Denies the allegations contained in paragraph 12 of the Notice of Opposition.

13. Denies the allegations contained in paragraph 13 of the Notice of Opposition.

Dated: New York, New York
December 7, 2010

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Applicant

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2010, I caused a true and correct copy of the foregoing Answer to be served on Opposer via first class mail addressed to its counsel of record as follows:

David A. Herdman, Esq.
Kellogg North America Company
One Kellogg Square, PO Box 3599
Battle Creek, MI 49016-3599

A handwritten signature in black ink, appearing to read 'Richard S. Mandel', written in a cursive style.

Richard S. Mandel