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

Proceeding	91212679
Party	Defendant ConAgra Foods RDM, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FRITO-LAY NORTH AMERICA, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91212679
)	
CONAGRA FOODS RDM, INC.,)	U.S. App. Serial No. 85/655,967
)	
Applicant.)	Mark: POP CRUNCH
)	
)	
)	

ANSWER TO NOTICE OF OPPOSITION

Applicant ConAgra Foods RDM, Inc. (“ConAgra Foods”) in Application Serial No. 85/655,967 (“the Subject Application”), provides its Answer to the Notice of Opposition filed by Opposer Frito-Lay North America, Inc. (“Opposer”) as follows:

1. ConAgra Foods is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Notice of Opposition, and accordingly denies the same.
2. ConAgra Foods is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Notice of Opposition, and accordingly denies the same.
3. ConAgra Foods is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Notice of Opposition, and accordingly denies the same.
4. ConAgra Foods admits that the Subject Application identifies certain goods in International Class 30, that is, “snack foods, namely, ready-to-eat popped popcorn; snack mix

consisting primarily of popped popcorn; popcorn seasonings.” Except as so expressly admitted ConAgra Foods denies the allegations set forth in paragraph 4 of the Notice of Opposition.

5. ConAgra Foods is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Notice of Opposition, and accordingly denies the same.

6. ConAgra Foods is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Notice of Opposition, and accordingly denies the same.

7. ConAgra Foods is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Notice of Opposition, and accordingly denies the same.

8. ConAgra Foods denies the allegations contained in paragraph 8 of the Notice of Opposition.

9. ConAgra Foods denies the allegations contained in paragraph 9 of the Notice of Opposition.

10. ConAgra Foods denies the allegations contained in paragraph 10 of the Notice of Opposition.

11. ConAgra Foods denies the allegations contained in paragraph 11 of the Notice of Opposition.

12. ConAgra Foods denies the allegations contained in paragraph 12 of the Notice of Opposition.

13. ConAgra Foods denies the allegations contained in paragraph 13 of the Notice of Opposition.

ConAgra Foods denies that Opposer is entitled to any of the relief requested in the paragraph immediately following paragraph 13 of the Notice of Opposition.

GENERAL DENIAL

ConAgra Foods specifically denies each and every allegation in Opposer's Notice of Opposition that is not specifically admitted herein.

AFFIRMATIVE DEFENSES

First Affirmative Defense: For further answer, as an affirmative defense, ConAgra Foods states that Opposer's Notice of Opposition fails to state a claim upon which relief may be granted.

Second Affirmative Defense: For further answer, as an affirmative defense, ConAgra Foods states that Opposer has waived any claims that it may have against Applicant based on, without limitation, Opposer's knowing delay in enforcing its claimed rights.

Third Affirmative Defense: For further answer, as an affirmative defense, ConAgra Foods states that this opposition is barred in whole or in part by the equitable doctrine of laches, estoppel, acquiescence and/or unclean hands.

Fourth Affirmative Defense: For further answer, as an affirmative defense, ConAgra Foods states that Opposer fails to show that it is damaged and further lacks standing to bring this Notice of Opposition.

Fifth Affirmative Defense: For further answer, ConAgra Foods states that its discovery and investigation continues. Accordingly, ConAgra Foods reserves the right to assert additional defenses as they become known as to all claims asserted against them.

WHEREFORE, Applicant ConAgra Foods RDM, Inc. prays that the Board dismiss Opposer's Notice of Opposition with prejudice, that the Board enter judgment in favor of ConAgra Foods and against Opposer herein, that the Board allow the trademark identified in U.S. Trademark Application Serial No. 85/655,967 to issue on the principal register, and for such other and further relief as the Board deems just and proper.

DATED: November 4, 2013

Respectfully Submitted,

By: /s/ Andrew R. Gilfoil
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*Attorneys for Applicant ConAgra Foods
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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was served via first-class mail, postage prepaid, on this 4th day of November, 2013 upon:

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/s/ Andrew R. Gilfoil