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

Proceeding	91226642
Party	Defendant JUICE GENERATION, INC.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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HERSHEY CHOCOLATE & CONFECTIONERY  
CORPORATION AND THE HERSEY  
COMPANY,

Opposer(s),

v.

JUICE GENERATION, INC.,

Applicant.

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OPPOSITION NO. 91226642

**APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES**

Applicant Juice Generation, Inc., (“Applicant”) answers the Notice of Opposition as filed on March 1, 2016.

1. Applicant lacks sufficient information on which to form a belief as to the truth of the allegations in this paragraph and on that basis denies each and every one of them.
2. Applicant lacks sufficient information on which to form a belief as to the truth of the allegations in this paragraph and on that basis denies each and every one of them.
3. Applicant lacks sufficient information on which to form a belief as to the truth of the allegations in this paragraph and on that basis denies each and every one of them.
4. The cited applications/registrations speak for themselves. The remaining allegations are denied.

5. Applicant lacks sufficient information on which to form a belief as to the truth of the remaining allegations in this paragraph and on that basis denies each and every one of them.

6. Applicant lacks sufficient information on which to form a belief as to the truth of the allegations in this paragraph and on that basis denies each and every one of them.

7. Denied.

8. According to Opposers, the ALMOND JOY bar contains "CORN SYRUP; MILK CHOCOLATE [SUGAR; COCOA BUTTER; CHOCOLATE; MILK; LACTOSE; MILK FAT; NONFAT MILK; LECITHIN (SOY); PGPR (EMULSIFIER)]; COCONUT; SUGAR; ALMONDS (ROASTED IN SUNFLOWER OIL); CONTAINS 2% OR LESS OF: VEGETABLE OIL (PALM KERNEL AND PALM OIL); COCOA; WHEY (MILK); SALT; HYDROLYZED MILK PROTEIN; LECITHIN (SOY); SODIUM METABISULFITE (TO MAINTAIN FRESHNESS)." The remaining allegations are denied.

9. Applicant lacks sufficient information on which to form a belief as to the truth of the allegations in this paragraph and on that basis denies each and every one of them.

10. Applicant lacks sufficient information on which to form a belief as to the truth of the allegations in this paragraph and on that basis denies each and every one of them.

11. Denied.

12. Applicant lacks sufficient information on which to form a belief as to the truth of the allegations in this paragraph and on that basis denies each and every one of them.

13. Denied.

#### **AFFIRMATIVE DEFENSES**

1. The Notice of Opposition fails to state a claim upon which relief can be granted.

2. Applicant has used its mark JOYFUL ALMOND notoriously for over 4 years, and Opposers' claims are barred by the doctrine of laches and acquiescence.

3. Applicant's mark and Opposers' mark are different, and Applicant has priority over Opposers with respect Applicant's mark with its goods and services.

4. Opposers have not used or is not using the phrase "Joyful Almond" as source-identifying trademark.

5. Opposers have engaged in the practice of "trademark bullying" which is described as a trademark owner that uses its trademark rights to harass or intimidate another business beyond what the law may reasonably be interpreted to allow.

6. Applicant reserves the right to add additional affirmative defenses after conducting discovery.

WHEREFORE, for the foregoing reasons, Applicant requests that the Board dismiss this Opposition with Prejudice.

April 11, 2016

Respectfully Submitted,  
BAKER DONELSON

/NIGAMNARAYAN ACHARYA/

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**PROOF OF SERVICE**

I certify that on April 11, 2016, I served or caused to be served a copy of the document entitled

**APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES**

on Opposer by First Class Mail:

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