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

Proceeding	91231833
Party	Plaintiff Birds Eye Foods, LLC
Correspondence Address	MICHAEL L VISSER FISHMAN STEWARD PLLC 39533 WOODWARD AVE STE 140 BLOOMFIELD HILLS, MI 48304 UNITED STATES
Submission	Answer to Counterclaim
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Date	08/20/2017
Attachments	HAWAIIAN CHIP answer to counterclaim.pdf(90135 bytes)

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

BIRDS EYE FOODS LLC,)	
)	
Opposer/Counterclaim Registrant,)	Opposition No. 91231833
)	Application Serial No. 86869172
v.)	Mark: HAWAIIAN CHIP COMPANY & DESIGN
)	Registration No. 3697408
HAWAIIAN CHIP COMPANY LLC,)	Mark: HAWAIIAN
)	
Applicant/Counterclaim Petitioner.)	
_____)	

ANSWER TO AMENDED COUNTERCLAIM FOR CANCELLATION

Registrant, by and through its attorneys identified below, for its Answer to the Amended Counterclaim for Cancellation, states as follows:

With regard to the unnumbered paragraph, Registrant admits that Registration No. 3697408 for the mark HAWAIIAN issued on October 20, 2009 to Birds Eye Foods, Inc., that the registration specifies “*potato chips*” in International Class 29, and that Registrant’s address is 399 Jefferson Road, Parsippany, New Jersey 07054. Registrant denies that Petitioner has been or will be damaged by Registration No. 3697408, and that Birds Eye Foods, Inc. was a Delaware limited liability company. With regard to the remaining allegations of the unnumbered paragraph, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

1. Registrant denies the allegations of numbered paragraph 1.
2. With regard to the allegations of numbered paragraph 2, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.
3. With regard to the allegations of numbered paragraph 3, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.
4. With regard to the allegations of numbered paragraph 4, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

5. With regard to the allegations of numbered paragraph 5, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

6. With regard to the allegations of numbered paragraph 6, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

7. Registrant admits that it opposed registration of Application No. 86869172 for the mark HAWAIIAN CHIP COMPANY & DESIGN.

8. With regard to the allegations of numbered paragraph 8, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

9. Registrant admits the allegations of numbered paragraph 9.

10. With regard to the allegations of numbered paragraph 10, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

11. With regard to the allegations of numbered paragraph 11, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

12. With regard to the allegations of numbered paragraph 12, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

13. Registrant denies the allegations of numbered paragraph 13.

14. Registrant admits the allegations of numbered paragraph 14.

15. Registrant admits the allegations of numbered paragraph 15.

16. Registrant denies the allegations of numbered paragraph 16.

17. With regard to the allegations of numbered paragraph 17, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

18. With regard to the allegations of numbered paragraph 18, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

19. With regard to the allegations of numbered paragraph 19, Registrant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

20. Registrant denies the allegations of numbered paragraph 20.

21. Registrant denies the allegations of numbered paragraph 21.

22. Registrant denies the allegations of numbered paragraph 22, in that Petitioner has not demonstrated that it has title or rights in the mark of Application No. 86869172.

23. Registrant denies the allegations of numbered paragraph 23.

Accordingly, Registrant respectfully requests that the Petition for Cancellation be dismissed with prejudice.

Respectfully submitted,

Date August 20, 2017

s/Michelle L. Visser
Michael D. Fishman
Michelle L. Visser
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing *Answer to Amended Counterclaim for Cancellation* upon Applicant/Counterclaim Petitioner by causing a true and correct copy thereof to be sent by e-mail to kherring@awlaw.com.

Date: August 20, 2017

s/Michelle L. Visser