

ESTTA Tracking number: **ESTTA849278**

Filing date: **09/29/2017**

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

Proceeding	91236279
Party	Defendant CHEF'S TOUCH SALES AND MARKETING, LLC
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Submission	Answer
Filer's Name	MANDY T. GARRELS
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Date	09/29/2017
Attachments	Applicant.Answer.signed.9.29.17.pdf(57306 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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FRITO-LAY NORTH AMERICA, INC.

OPPOSER,

V.

OPPOSITION NO. 91236279

MARK: LET'S TAILGATE!

CHEF'S TOUCH SALES AND

SERIAL NO. 87/249,836

MARKETING, LLC

APPLICANT.

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APPLICANT'S ANSWER TO OPPOSER'S OPPOSITION

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Applicant, Chef's Touch Sales and Marketing, LLC ("Chef's Touch" or "Applicant"), a limited liability corporation organized by the laws of the State of Wisconsin having a place of business at 2628 N. 11<sup>th</sup> St., Sheboygan, WI 53081 hereby provides its Answer to Frito-Lay North America, Inc.'s ("Frito-Lay" or "Opposer") Notice of Opposition as follows:

Answering Paragraph 1 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations of Paragraph 1. Applicant further affirmatively defends and denies Paragraph on the basis that the Notice of Opposition fails to name more than one individual party as the opponent and therefore may not include any unnamed (and unknown) parties in this proceeding without following proper procedure for joinder pursuant to 37 CFR § 2.105.

Answering Paragraph 2 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

Answering Paragraph 3 of the Notice of Opposition, Applicant does not have sufficient knowledge or allegations contained therein and accordingly denies the allegations.

Answering Paragraph 4 of the Notice of Opposition, Applicant admits to Opposer's description of a "tailgate" as an event. Except as admitted, denied.

Answering Paragraph 5 of the Notice of Opposition, Applicant makes no answer to the allegations of Paragraph 5 to the extent those allegations state legal conclusions rather than facts. Further, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 and therefore denies those allegations.

Answering Paragraph 6 of the Notice of Opposition, Applicant makes no answer to the allegations of Paragraph 6 to the extent those allegations state legal conclusions rather than facts. Further, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 and therefore denies those allegations.

Answering Paragraph 7 of the Notice of Opposition, Applicant makes no answer to the allegations of Paragraph 6 to the extent those allegations state legal conclusions rather than facts. Further, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 and therefore denies those allegations.

#### AFFIRMATIVE DEFENSES

Applicant asserts that the following defenses bar Opposer's requested relief in its Notice of Opposition.

##### FIRST AFFIRMATIVE DEFENSE

One or more of Opposer's claims fail to state a claim upon which relief may be granted. Applicant is filing a Motion to Dismiss concurrently with this Answer.

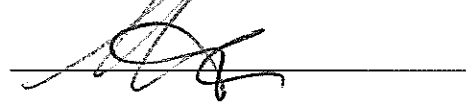
##### SECOND AFFIRMATIVE DEFENSE

Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defense.

WHEREFORE, Applicant request that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant all other appropriate relief to Applicant as it deems just.

September 29, 2017

Respectfully Submitted

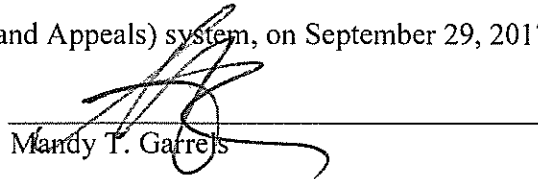


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Attorneys for Chef's Touch Sales and  
Marketing, LLC

#### CERTIFICATE OF FILING

I hereby certify that Applicant's Answer was filed electronically through the TTAB's ESTTA (Electronic System for Trademark Trials and Appeals) system, on September 29, 2017.

By:



Mandy T. Garrels

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2017, the foregoing document, Applicant's Answer, is being deposited today with the United States Postal Service with sufficient postage as Express Overnight Mail in an envelope addressed to the Attorney of Record for the Opposer:

Jeanette S. Zimmer  
7701 Legacy Drive, Mail Stop 3A-421  
Plano, TX 75024

By: 

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Mandy T. Garrels