

ESTTA Tracking number: **ESTTA940110**

Filing date: **12/10/2018**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	ConAgra Foods RDM, Inc.
Granted to Date of previous extension	12/26/2018
Address	222 W. Merchandise Mart Plaza, Ste. 1300 Chicago, IL 60654 UNITED STATES

Attorney information	Michelle Alvey Husch Blackwell LLP 190 Carondelet Plaza, Suite 600 St. Louis, MO 63105 UNITED STATES michelle.alvey@huschblackwell.com, Nicole.Anderson@huschblackwell.com, pto-sl@huschblackwell.com 314-480-1500
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Applicant Information

Application No	87927941	Publication date	08/28/2018
Opposition Filing Date	12/10/2018	Opposition Period Ends	12/26/2018
Applicant	Acme International, Inc. 3265 Saturn Court Peachtree Corners, GA 30092 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Potato crisps and chips; Pulse-based snack foods; Vegetable chips
Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cereal-based snack food; Corn chips; Grain-based chips; Grain-based snack foods; Rice-based snack foods; Tortilla chips; Wheat-based snack foods

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2801213	Application Date	08/12/2002
Registration Date	12/30/2003	Foreign Priority Date	NONE
Word Mark	CRUNCH 'N MUNCH		
Design Mark	<p style="text-align: center;">CRUNCH 'N MUNCH</p>		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2001/01/00 First Use In Commerce: 2001/01/00 Snack mix consisting primarily of popped popcorn		

Attachments	76439492#TMSN.png(bytes) Opposition.pdf(103627 bytes)
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Signature	/Michelle Alvey/
Name	Michelle Alvey
Date	12/10/2018

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on December 10, 2018.

/Michelle Alvey/

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

In the matter of Application
Serial No. 87927941

CONAGRA FOODS RDM, INC.,)	
)	
Opposer,)	
)	
v.)	Proceeding No.
)	
ACME INTERNATIONAL, INC.)	
)	
)	
)	
Applicant.)	

NOTICE OF OPPOSITION

ConAgra Foods RDM, Inc., a Delaware corporation, with a place of business at 222 W. Merchandise Mart Plaza, Suite 1300, Chicago, IL 60654 (“Opposer”), believes it will be damaged by the registration of the mark as shown in Application Serial No. 87927941 (the “Application”), and hereby opposes the same. As grounds for opposition, Opposer states:

1. On May 18, 2018, Applicant Acme International, Inc., a Georgia Corporation, 3265 Saturn Court Peachtree Corners Georgia 30092 (“Applicant”), filed the Application for the mark CRUNCHI MUNCHI (“Applicant’s Mark”) for “Potato crisps and chips; Pulse-based snack foods; Vegetable chips” in Class 29 and “Cereal-based snack food; Corn chips; Grain-based chips; Grain-based snack foods; Rice-based snack foods; Tortilla chips; Wheat-based snack foods” in Class 30 (“Applicant’s Goods”). The Application is based on an alleged bona fide intent to use the mark in commerce.

2. Opposer owns common law rights in and to the trademark CRUNCH 'N MUNCH in connection with food products, including the goods set forth in the chart below (“Opposer’s Goods”) and owns the U.S. trademark registration set forth in the chart below (all of Opposer’s rights in and to the mark referenced above and included below are collectively referred to as the “CRUNCH 'N MUNCH Mark”):

TM/AN/RN/ Disclaimer	Status/Key Dates	Full Goods/Services
<u>CRUNCH 'N MUNCH</u> RN: 2801213 SN: 76439492	Renewed December 30, 2013 Int'l Class: 30 First Use: January, 2001 Filed: August 12, 2002 Registered: December 30, 2003	(Int'l Class: 30) snack mix consisting primarily of popped popcorn

3. Since long prior to the filing date of the Application and any alleged use by Applicant, Opposer has used the CRUNCH 'N MUNCH Mark in connection with Opposer’s Goods.

4. Opposer’s Goods are identical or related to Applicant’s Goods such that consumers would mistakenly believe that Applicant’s Goods and Opposer’s Goods emanate from the same source.

5. The CRUNCH 'N MUNCH Mark is distinctive, and is uniquely associated with Opposer in connection with Opposer's Goods, by reason of Opposer's continuous and extensive use, advertising, promotion, and sales. Such use, advertising, promotion, and sales occurred prior to the filing date of the Application and any alleged use by Applicant.

6. On information and belief, Applicant’s Goods are or will be directed to the same or related class of customers as are Opposer’s Goods and will be offered in the same channels of trade.

7. Applicant's Mark so resembles the CRUNCH 'N MUNCH Mark as to be likely, when used in conjunction with Applicant's Goods, to cause confusion, mistake, or deception by causing the public to believe that the goods offered in connection with Applicant's Mark originate from, or are otherwise sponsored or endorsed by Opposer in violation of Lanham Act §2(d) (15 U.S.C. 1052(d)).

8. For at least the reasons stated above, Opposer will be damaged by Applicant's registration of Application No. 87927941.

WHEREFORE, Opposer prays that Application No. 87927941 be refused registration.

Respectfully submitted,

By: Michelle Alvey
Michelle Alvey
Alan S. Nemes
HUSCH BLACKWELL LLP
The Plaza in Clayton Office Tower
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Telephone: (314) 345-6000

Attorneys for Opposer.