

ESTTA Tracking number: **ESTTA1111526**

Filing date: **02/01/2021**

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

Proceeding	91266623
Party	Defendant Fresh From The Heart
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Attachments	02293467.PDF(12506 bytes)

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

YARNELL ICE CREAM, LLC,

Opposer,

v.

FRESH FROM THE HEART INC.,

Applicant.

Opposition No. 91266623

Mark: GUILTLESS CHOCOLATE
CHIP COOKIES

Serial No.: 88/794,320

Filed: Feb. 12, 2020

Published: Sept. 29, 2020

ANSWER AND AFFIRMATIVE DEFENSES

Applicant Fresh From The Heart INC. (“Applicant”), through its attorneys Tarter Krinsky & Drogin LLP, answers the Notice of Opposition filed by Opposer Yarnell Ice Cream, LLC (“Opposer”), as follows:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice of Opposition, and, accordingly, denies the same.

2. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition, and, accordingly, denies the same.

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice of Opposition, and, accordingly, denies the same.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice of Opposition, and, accordingly, denies the same.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice of Opposition, and, accordingly, denies the same.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice of Opposition, and, accordingly, denies the same.

7. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Notice of Opposition, and, accordingly, denies the same.

8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice of Opposition, and, accordingly, denies the same.

9. Applicant denies the allegations contained in Paragraph 9 of the Notice of Opposition.

10. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Notice of Opposition, and, accordingly, denies the same.

11. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Notice of Opposition, and, accordingly, denies the same.

12. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Notice of Opposition, and, accordingly, denies the same.

13. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Notice of Opposition, and, accordingly, denies the same.

14. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Notice of Opposition, and, accordingly, denies the same.

15. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Notice of Opposition, and, accordingly, denies the same.

16. Applicant admits the allegations contained in Paragraph 16 of the Notice of Opposition.

17. Applicant admits that, in its application to register its GUILTLESS CHOCOLATE CHIP COOKIES mark, no claim is made to the exclusive right to use CHOCOLATE CHIP COOKIES apart from the mark as shown. Applicant denies all other allegations contained in Paragraph 17 of the Notice of Opposition.

18. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Notice of Opposition, and, accordingly, denies the same.

19. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Notice of Opposition, and, accordingly, denies the same.

20. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Notice of Opposition, and, accordingly, denies the same.

21. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Notice of Opposition, and, accordingly, denies the same.

22. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of the Notice of Opposition, and, accordingly, denies the same.

23. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Notice of Opposition, and, accordingly, denies the same.

24. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of the Notice of Opposition, and, accordingly, denies the same.

25. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Notice of Opposition, and, accordingly, denies the same.

26. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the Notice of Opposition, and, accordingly, denies the same.

27. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the Notice of Opposition, and, accordingly, denies the same.

28. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Notice of Opposition, and, accordingly, denies the same.

29. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of the Notice of Opposition, and, accordingly, denies the same.

30. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30 of the Notice of Opposition, and, accordingly, denies the same.

31. Applicant denies the allegations contained in Paragraph 31 of the Notice of Opposition.

32. Applicant denies the allegations contained in Paragraph 32 of the Notice of Opposition.

33. Applicant denies the allegations contained in Paragraph 33 of the Notice of Opposition.

34. Applicant denies the allegations contained in Paragraph 34 of the Notice of Opposition.

35. Applicant denies the allegations contained in Paragraph 35 of the Notice of Opposition.

36. Applicant denies the allegations contained in Paragraph 36 of the Notice of Opposition.

37. Applicant denies the allegations contained in Paragraph 37 of the Notice of Opposition.

38. Applicant denies the allegations contained in Paragraph 38 of the Notice of Opposition.

39. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39 of the Notice of Opposition, and, accordingly, denies the same.

FIRST AFFIRMATIVE DEFENSE

40. There is no likelihood of confusion between Applicant's GUILTLESS CHOCOLATE CHIP COOKIES mark on the one hand and Opposer's alleged GUILT FREE mark on the other because the parties' respective goods are sufficiently distinguishable to avoid confusion.

SECOND AFFIRMATIVE DEFENSE

41. There is no likelihood of confusion between Applicant's GUILTLESS CHOCOLATE CHIP COOKIES mark on the one hand and Opposer's alleged GUILT FREE mark on the other because the marks are sufficiently distinguishable in sight, sound and commercial impression to avoid confusion.

THIRD AFFIRMATIVE DEFENSE

42. Upon information and belief, there is no likelihood of confusion between Applicant's GUILTLESS CHOCOLATE CHIP COOKIES mark on the one hand and Opposer's

alleged GUILT FREE mark on the other because the marks have coexisted in the marketplace without actual confusion.

FOURTH AFFIRMATIVE DEFENSE

43. Upon information and belief, Applicant's GUILTLESS CHOCOLATE CHIP COOKIES mark has priority over Opposer's alleged GUILT FREE mark, at least with respect to the applied for goods, namely, cookies.

FIFTH AFFIRMATIVE DEFENSE

44. Opposer is not likely to be damaged by registration of the GUILTLESS CHOCOLATE CHIP COOKIES mark and therefore lacks standing to oppose said mark.

Respectfully submitted,

Dated: New York, New York
February 1, 2021

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