

ESTTA Tracking number: **ESTTA1286586**

Filing date: **05/22/2023**

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

Proceeding no.	91284522
Party	Defendant 1729 Investments LLC
Correspondence address	RANDY MICHELS TRUST TREE LEGAL, P.C. 798 BERRY ROAD #41400 NASHVILLE, TN 37204 UNITED STATES Primary email: randy@trusttree.com Secondary email(s): docket@trusttree.com 615-469-0438
Submission	Answer
Filer's name	Randy Michels
Filer's email	randy@trusttree.com
Signature	/JRM/
Date	05/22/2023
Attachments	RAO MEKA Answer to Notice of Opposition v1.pdf(89057 bytes )

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

<b>Rao's Specialty Foods, Inc.,</b>	)
	)
<b>Opposer,</b>	)
	) <b>Opposition No. 91284522</b>
<b>v.</b>	) <b>Serial No. 97/251,041</b>
	) <b>Mark: RAO MEKA</b>
<b>1729 Investments LLC,</b>	)
	)
<b>Applicant.</b>	)
	)
	)
_____	)

**ANSWER TO NOTICE OF OPPOSITION**

Applicant 1729 Investments LLC (“Applicant”) hereby answers the Notice of Opposition filed by Rao's Specialty Foods, Inc. (“Opposer”). Applicant denies each and every allegation, matter, and thing contained in the Notice of Opposition and each and every portion thereof, unless herein specifically admitted. With respect to the individually numbered paragraphs of the Notice of Opposition, Applicant answers as follows:

1. Admitted.
2. Applicant admits that it is the owner of U.S. Ser. No. 90/694,523 for the mark RAO’S in connection with “Wine produced from grapes grown in a single designated vineyard in the Atlas Peak American Viticultural Area, in accordance with specific standards; all of the foregoing sold at the vineyard, wine specialty stores, and direct to consumers; none of the foregoing sold in restaurants” in Class 33. Applicant admits that U.S. Ser. No. 90/694,523 was refused registration by the Examining Attorney assigned to the application, but the refusal was reversed by the Trademark Trial and Appeal Board.
3. Admitted.
4. Admitted.

5. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 5, and therefore, denies the same.

6. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 6, and therefore, denies the same.

7. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 7, and therefore, denies the same.

8. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 8, and therefore, denies the same.

9. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 9, and therefore, denies the same.

10. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 10, and therefore, denies the same.

11. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 11, and therefore, denies the same.

12. Applicant admits that USPTO TESS printouts are attached as Exhibit A. Applicant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of Paragraph 12, and therefore, denies the same.

13. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 13, and therefore, denies the same.

14. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 14, and therefore, denies the same.

15. Applicant lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 15, and therefore, denies the same.

16. Denied.
17. Denied.
18. Denied.
19. Denied.
20. Denied.
21. Denied.
22. Denied.
23. Denied.
24. Denied.
25. Denied.
26. Denied.
27. Denied.
28. Denied.
29. Admitted.
30. Denied.
31. Denied.

#### **ADDITIONAL DEFENSES**

Applicant asserts the following additional defenses. In so doing, Applicant does not concede that it has the burden of production of proof as to any additional defense asserted below. Furthermore, Applicant does not presently know all the facts sufficient to state all additional defenses. Accordingly, Applicant reserves the right to amend this Answer should it discover facts demonstrating the existence of additional defenses.

32. The Notice of Opposition fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining opposition.

33. Opposer's marks are weak and entitled to a narrow scope of protection.

34. The marks at issue are not similar in appearance, sound, meaning, and commercial impression.

35. The goods at issue are not similar.

36. Confusion is unlikely due to the sophistication of the purchasers and the circumstances under which Applicant's goods are purchased.

37. The Examining Attorney at the United States Patent and Trademark Office who was responsible for handling the prosecution of U.S. Serial No. 97/251,041 did not cite any trademark registrations or applications which would bar registration of the application. There was no finding of confusion in the record and this should be given weight in this proceeding.

38. Opposer will not be damaged and is not likely to be damaged by the registration of Applicant's RAO MEKA mark depicted in U.S. Serial No. 97/251,041.

39. Pursuant to Section 18 of the Lanham Act, if the Board determines that there is a likelihood of confusion with respect to the Applicant's identification of goods then Applicant asserts that it is entitled to a registration with restrictions. The current identification in U.S. Serial No. 97/251,041 is "Wine" in Class 33. The identification can be amended to "Wine produced from grapes grown in a single designated vineyard in the Atlas Peak American Viticultural Area, in accordance with specific standards; all of the foregoing sold at the vineyard, wine specialty stores, and direct to consumers; none of the foregoing sold in grocery stores" in Class 33. The proposed amendment accurately

describes the goods that Applicant intends to offer under the RAO MEKA mark. To the extent that the Board determines that the current identification will cause a likelihood of confusion, Applicant submits that the proposed amendment will alleviate the likelihood of confusion by further differentiating Applicant's goods from Opposer's goods.

40. Applicant hereby reserves the right to amend the Answer and reserves any other defenses, at law or in equity, which become applicable after the substantial completion of discovery or otherwise in the course of the opposition proceeding.

WHEREFORE, Applicant respectfully requests that Opposition No. 91284522 be refused, and Applicant's mark be allowed to proceed to registration.

Respectfully submitted,

s/Randy Michels

Randy Michels

Bill Ferrell

Kevin Hartley

TRUST TREE LEGAL, P.C.

798 Berry Road #41400

Nashville, TN 37204

Telephone: (615) 469-0438

[randy@trusttree.com](mailto:randy@trusttree.com)

[bill@trusttree.com](mailto:bill@trusttree.com)

[kevin@trusttree.com](mailto:kevin@trusttree.com)

[docket@trusttree.com](mailto:docket@trusttree.com)

Attorneys for Applicant

**CERTIFICATE OF SERVICE**

I hereby certify that on May 22, 2023, pursuant to Trademark Rule 2.119, a copy of Applicant's Answer was served on counsel for Opposer via email to:

Bassam N. Ibrahim  
Laura K. Pitts  
Bryce J. Maynard  
Buchanan Ingersoll & Rooney PC  
1737 King St., Suite 500  
Alexandria, Virginia  
22314-2727  
(703) 836-6620  
[bassam.ibrahim@bipc.com](mailto:bassam.ibrahim@bipc.com)  
[laura.pitts@bipc.com](mailto:laura.pitts@bipc.com)  
[bryce.maynard@bipc.com](mailto:bryce.maynard@bipc.com)

s/Randy Michels  
Attorney for Applicant