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

Proceeding	91178758
Party	Defendant JMC Sales
Correspondence Address	JMC SALES 20322 SE 240TH ST MAPLE VALLEY, WA 98038-8618 jmcsweet@comcast.net
Submission	Answer
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Date	09/14/2007
Attachments	Applicant's Answer to Notice of Opposition 77108 (77139).PDF (5 pages (152109 bytes)

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

In the Matter of:
Application Serial No. 78/947,247
Published in the *Official Gazette*
April 10, 2007

McDONALD's CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91178759
)	
JMC SALES,)	
)	
Applicant.)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, JMC Sales, composed of James B. McCaslin, for its/his answer to the Notice of Opposition filed by McDONALD'S CORPORATION against application for registration of JMC's trademark MCSWEET, Serial No. 78947247 filed August 8, 2006, and published in the Official Gazette of April 10, 2007, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant admits the allegations thereof.
2. 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.
3. Answering paragraph 3 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.

4. Answering paragraph 4 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.

5. Answering paragraph 5 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.

6. Answering paragraph 6 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.

7. Answering paragraph 7 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.

8. Answering paragraph 8 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.

9. Answering paragraph 9 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.

10. Answering paragraph 10 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

11. Answering paragraph 11 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

12. Applicant further affirmatively alleges that as a result of its continuous substantial usage of its mark MCSWEET since adoption, this mark is a valuable asset of Applicant and carries considerable goodwill and consumer acceptance of its products sold under the mark. Such goodwill and widespread usage has made the mark distinctive to the Applicant.

13. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded marks of Opposer are not confusingly similar.

14. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded marks of Opposer are not confusingly similar. Any similarity, if at all, between Applicant's mark and the pleaded marks of Opposer is in the portion "Mc" which, upon information and belief, has been used and registered by numerous third parties in the foods, restaurant and processed foods businesses. As a result, Opposer cannot base any similarity between its pleaded marks and the mark of Applicant of the "Mc." Any trademark or service mark rights that Opposer may have are narrowly circumscribed to the goods or services indicated and any other use would not lead to a likelihood of confusion.

15. Applicant further affirmatively alleges that Opposer's "MC" mark is or has become generic for inexpensive, convenient or easy but low quality or commercialized versions of items and therefore cannot have meaning as a trademark.

16. Applicant further affirmatively alleges that Applicant has been using its mark and developing consumer recognition and goodwill in its mark for approximately 17 years and Opposer has done nothing and is consequently barred by laches, acquiescence and estoppel from opposing Applicant's application.

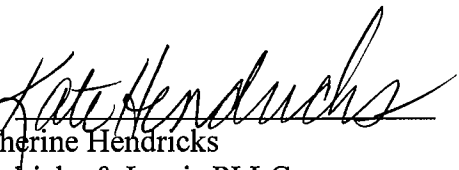
17. Applicant further affirmatively alleges that there is no likelihood of dilution of Opposer's mark by tarnishment because Opposer's marks are associated with inexpensive, convenient or easy but low quality or commercialized versions of items whereas Applicant's mark is associated with high quality gourmet products.

18. Applicant further affirmatively alleges that there is no likelihood of dilution by blurring because Opposer's and Applicant's marks are not sufficiently similar; there are, upon information and belief, numerous uses and registrations of third party marks with the "Mc" formative; neither Applicant nor Applicant's predecessors in interest intended any association with Opposer's marks or any of them; and upon information and belief, ordinary prospective purchaser's of Applicant's products do not associate Applicant's and Opposer's marks.

WHEREFORE, Applicant requests that the notice of opposition be dismissed.

Respectfully submitted,

JMC Sales

By: 
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Date: September 14, 2007

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Applicant's Answer to Notice of Opposition has been served on opposing counsel by mailing said copy on September 14, 2007, via First Class Mail, postage prepaid to:

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