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

Proceeding	92060914
Party	Defendant SnoWizard, Inc.
Correspondence Address	KENNETH L TOLAR SNOWIZARD INC 2908 HESSMER AVENUE, SUITE 2 METAIRIE, LA 70002 UNITED STATES tolar@tolarlawoffice.com
Submission	Defendant's Notice of Reliance
Filer's Name	Kenneth L Tolar
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Signature	/kenneth l tolar/
Date	05/01/2017
Attachments	NOTICE OF RELIANCE.pdf(50661 bytes) Exhibit A.pdf(1255033 bytes) Exhibit C.pdf(937397 bytes) Exhibit D.pdf(109605 bytes) Exhibit E.pdf(42854 bytes) Exhibit B.pdf(982954 bytes)

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

In the Matter of Trademark Registration
No.: 4,157,907, WHITE CHOCOLATE & CHIPS®

Cancellation No. 92060914

Snow Ball's Chance, Ltd.

v.

SnoWizard, Inc.

REGISTRANT'S NOTICE OF RELIANCE

Registrant and Respondent, SnoWizard, Inc., ("SnoWizard") hereby submits this Notice of Reliance according to 37 C.F.R. §2.120 *et seq.* Respondent intends to rely upon the following evidence, which is hereby made of record in this matter.

1. The entire file wrapper of registration no. 4,157,907, which is automatically of record herein pursuant to 37 C.F.R. 2.122(b).

2. Copies of Petitioner's invoices produced by Petitioner attached hereto as Exhibit "A." The documents are relevant to show that Petitioner is a mere proxy of Southern Snow Manufacturing Co., Inc. ("Southern Snow"), which was a plaintiff in numerous consolidated cases ("the consolidated cases") in the Eastern District of Louisiana, Case No. 06-9170 c/w 09-3394, 10-0791, and 11-1449 in which it relentlessly attacked registrations of SnoWizard, including WHITE CHOCOLATE & CHIPS®, by alleging the same finally adjudicated and rejected theories asserted herein.

3. A stamped copy of the judgement entered by the trial court in the consolidated cases attached hereto as Exhibit B. The judgment is relevant to clearly show that the mark WHITE CHOCOLATE & CHIPS® is not generic, merely descriptive, functional or was obtained by

fraud as alleged in the Petition for Cancellation. These exact same specious and unsupportable theories were alleged by Petitioner's attorney on behalf of Southern Snow and others in privity therewith, and the jury determined that the registered mark WHITE CHOCOLATE & CHIPS® is a valid enforceable trademark belonging to SnoWizard, and that Southern Snow infringed such trademark.

4. A copy of the judgment rendered by the Court of Appeals for the Federal Circuit affirming the trial court judgement that WHITE CHOCOLATE & CHIPS® is a valid, enforceable trademark belonging to SnoWizard, and that Southern Snow infringed such trademark. A copy of the judgment is attached hereto as Exhibit C.

5. A copy of registration no. 4,157,907 attached hereto as Exhibit D.

6. A copy of an email communication from Petitioner's counsel, attached hereto as Exhibit E, wherein he asserts that Petitioner does not offer a flavor under the name White Chocolate & Chips and has never offered such flavor in the past.

Respectfully submitted,

/kennth l. tolar/
Kenneth L. Tolar, Registration No. 39860
Attorney for Defendant, SnoWizard, Inc.
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and

/s/ jack e. morris

JACK E. MORRIS (La. Bar No. 22539)
Attorney for Defendant, SnoWizard, Inc.
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Reliance has been served electronically upon Snow Ball's Chance, Ltd., Petitioner herein, on this 1st day of May, 2017, through its counsel of record as follows:

Mark E. Andrews
Andrews Arts & Sciences Law, LLC
7104 Coliseum Street
New Orleans, Louisiana 70118
mea@mealaw.com

/kennth l. tolar/

Kenneth L. Tolar

PARTIAL LIST FLAVOR CONCENTRATE	# OF QTS.	# OF GAL.	EO-170
Apple			
Bahama Mama			
Banana			
Blackberry			
Black Cherry			
Blueberry			
Blue Raspberry			
Bubble Gum			
Butterscotch			
Cherry	VI		
Cinnamon			
Coconut			
Cotton Candy			
Dreamsicle			
Fireball			
Fuzzy Navel			
Grape			
Hawaiian			
Hurricane			
Ice Cream			
Kiwi	VI		
Lemon			
Lemon Lime			
Lime			
Margarita			
Nectar			
Orange			
Passion Fruit			
Peach			
Pina Colada			
Pineapple			
Pink Lemonade	VI		
Raspberry			
Rootbeer			
Strawberry	VI		
Strawberry Cheesecake			
Strawberry Daiquiri			
Tiger Blood			
Tropical Punch			
Tutti Frutti			
Vanilla			
Watermelon			
Wedding Cake			
Wild Cherry			
Almond	VI		

INVOICE



SNOW INGREDIENTS, INC.

103 West "W" Street • Belle Chasse, LA 70037 • (504) 393-8967

SOLD TO
Rodney's

SHIP TO
Thru Del.

DATE ORDERED _____ DATE SHIPPED *3/13/15*

<input checked="" type="checkbox"/>	FIFTH GLASS BOTTLES	<i>ds</i>	14.00
<input checked="" type="checkbox"/>	POURERS (SOFT PLASTIC)	<i>ds</i>	
<input checked="" type="checkbox"/>	<i>gal. pourer</i>		10.00
<input checked="" type="checkbox"/>	<i>50 gal. pourer/caps</i>		62.50
<input checked="" type="checkbox"/>	<i>3 ds. speed pourers</i>		9.00
<input checked="" type="checkbox"/>	<i>84 labels</i>		21.00
<div style="border: 2px solid black; border-radius: 50%; padding: 20px; width: fit-content; margin: 0 auto;"> <p>paid cash MJD</p> </div>			

BENZOATE SODA	
FRUIT ACID	
PRESERVATIVE	
TOTAL QUARTS FLAVOR CONCENTRATE	
<i>5</i> TOTAL GALLONS FLAVOR CONCENTRATE	135.00
SUBTOTAL	256.50
STATE SALES TAX	<i>8th</i> 8.52
PARISH (County) SALES TAX	
SUBTOTAL	
SHIPPED VIA	FREIGHT CHARGES
TOTAL	264.02

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