

ESTTA Tracking number: **ESTTA817847**

Filing date: **05/01/2017**

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

Proceeding	92060915
Party	Defendant SnoWizard, Inc.
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Submission	Defendant's Notice of Reliance
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Date	05/01/2017
Attachments	NOTICE OF RELIANCE.pdf(50738 bytes ) Exhibit A.pdf(1255033 bytes ) Exhibit B.pdf(982954 bytes ) Exhibit C.pdf(937397 bytes ) Exhibit D.pdf(109668 bytes ) Exhibit E.pdf(42854 bytes )

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

In the Matter of Trademark Registration  
No.: 4,157,906, CAJUN RED HOT®

Cancellation No. 92060915

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. 4,157,906, 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., 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 CAJUN RED HOT® 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 CAJUN

RED HOT® 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 CAJUN RED HOT® 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 CAJUN RED HOT® 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. 4,157,906 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 Cajun Red Hot and has never offered such flavor in the past.

Respectfully submitted,

/kennth l. tolar/

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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 1<sup>st</sup> day of May, 2017, through its counsel of record as follows:

Mark E. Andrews  
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/kennth l. tolar/

Kenneth L. Tolar



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