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December 20, 2024 20 décembre 2024			
Irena Stojanovska			
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**FORM 301 Rule 301
Notice of Application**

Court File No. _____

FEDERAL COURT
BETWEEN:

Yat Sun Foods Products Ltd.
(Applicant)

and

Griffith Foods International Inc.
(Respondent)

APPLICATION UNDER Section 38(12) of the Trademarks Act

Notice of Application

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at (*place where Federal Court of Appeal (or Federal Court) ordinarily sits*).

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR
ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

December 20, 2024

Issued by: _____

Federal Court
Scotia Place – Tower 1
10060 Jasper Avenue, 5th Floor
Edmonton, Alberta T5J 3R8

TO: **Griffith Foods International Inc.**

Trademark Agent for service:

Smart & Bigger LP

Scotia Plaza, 40 King Street West, 40th Floor

Toronto, Ontario M5H 3Y2

Application

The Applicant makes this application for:

1. A judicial review in respect of a decision by the Trademarks Opposition Review Board dated October 23, 2024 and cited as *2024 TMOB 294* rejecting, pursuant to s. 38(12) of the Trademarks Act, the opponent's opposition to application 2,007,740 for CHEF'S OWN

The remedy sought:

1. An Order allowing this appeal and directing the Registrar of Trademarks to refuse Application 2,007,740 for CHEF'S OWN

The grounds for the application are:

1. The Applicant, identified as the Opponent in the Trademark Opposition, intends to adduce new evidence on the appeal including evidence of Ulf Zimmerman and an expert evidence.
2. The Registrar erred in finding that there was no confusion pursuant to s. 6 of the Trademarks Act.
3. The Registrar erred in his analysis and conclusion relating to the nature of the Goods, and Business in considering confusion pursuant to s. 6(5)(c) of the *Trademarks Act*
4. The Registrar erred in his analysis and conclusion relating to the Nature of the Trade in considering confusion pursuant to s. 6(5)(d) of the *Trademarks Act*.
5. The Registrar failed to put proper weight on the degree of resemblance between the trademarks including appearance, sound, and ideas suggested by them in considering confusion pursuant to s. 6(5)(e) of the *Trademarks Act*.
6. The Registrar erred in finding that the Applicant was entitled to registration notwithstanding s.12(1)(d) of the Trademarks Act
7. The Registrar erred in finding that the Applicant was entitled to registration notwithstanding s.16(1)(a) and 16(1)(c) of the Trademarks Act
8. The Registrar failed to put proper weight on the effects of a product recall.
9. The Registrar failed to consider the Greater risk of harm in the event of confusion because the Opponent is a small Canadian company and the Applicant is a multi-National conglomerate with more powerful marketing ability.

This application will be supported by the following material:

1. Affidavit of Ulf Zimmermann, president and secretary of Yat Sun Food Products Ltd. (Opponent).
2. Expert Report concerning food recalls from Doctor Felix Arndt
3. Decision of the Trademarks Opposition Review Board dated October 23, 2024 and cited as 2024 TMOB 294.

December 20, 2024



J. Cameron Prowse, K.C.
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