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TTAB

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February 28, 2006

By Express Mail (ED722210067US)

BOX TTAB FEE
Commissioner for Trademarks
P.O Box 1451
Alexandria, VA 22313-1451

Attention: Trademark Trial and Appeal Board

Re: Emeril's Food of Love Productions, LLC
Notice of Opposition Against
Kelman International Ltd.'s
Application to Register NOLA Marks
Attorney Ref. No. 23224.000

Dear Commissioner:

We enclose an original Notice of Opposition against Application Serial Number 78/386,082, published in the Official Gazette of November 1, 2005. We also enclose a check to cover filing fees.

If the enclosed check is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.



02-28-2006

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #30

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Kindly confirm receipt of this opposition by returning the attached postcard and address all future correspondence to the attention of Deborah K. Squiers of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,



Deborah K. Squiers

Enclosures

3. Since prior to March 17, 2004, Applicant's filing date, Opposer and/or its predecessors have used the marks NOLA alone and with a swirl design ("Opposer's NOLA Marks") in connection with restaurant and bar services and various goods and services, including clothing and cooking accessories.

4. Opposer is the owner of the U.S. Reg. No. 2,699,215 for the mark NOLA and



Design () and U.S. Reg. No. 2,652,839 for the word mark NOLA in the United States Patent and Trademark Office, as well as the goodwill attached to the marks.

5. As a result of the sales and promotion of its services and goods bearing Opposer's NOLA Marks and the use of Opposer's NOLA Marks by the press, media and public to refer to Opposer's services and goods, Opposer has built up a highly valuable goodwill in Opposer's NOLA Marks.

6. Upon information and belief, on March 17, 2004, Applicant filed an



nola

application, Serial No. 78/386,082, for the mark NOLA CAFE and Design () for "food services, namely cafes" in International Class 43. Applicant claims an intent to use the mark.

7. Upon information and belief, Applicant did not use the mark NOLA CAFE and Design in connection with "food services, namely cafes" in the United States prior to March 17, 2004.

8. Commencing prior to Applicant's filing date of March 17, 2004, Opposer has offered for sale and sold in interstate commerce its goods and services, including but not limited to restaurant and bar services, and other goods and services, including, clothing and cooking accessories, under Opposer's NOLA Marks.

9. Opposer's NOLA Marks are distinctive and famous and were so long prior to Applicant's filing date of March 17, 2004 of the NOLA CAFE and Design mark.

10. The services for which Applicant seeks to register its mark are identical to or closely related to the services and goods in connection with which Opposer has used Opposer's NOLA Marks.

11. Applicant's NOLA CAFE and Design mark is identical to and so resembles Opposer's NOLA Marks as to be likely, when applied to Applicant's services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's services have their origin with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer.

12. Opposer would be injured by the granting to Applicant of a certificate of registration for Applicant's NOLA CAFE and Design mark.

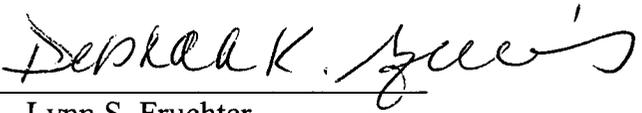
13. Opposer would be further injured by the granting of a certificate of registration to Applicant because Applicant's NOLA CAFE and Design mark would falsely suggest a connection between Applicant and Opposer.

WHEREFORE, Opposer respectfully requests that its opposition be sustained and that the application for registration herein opposed be denied.

Dated: New York, New York
February 28, 2006

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

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