

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

MOULIN ROUGE S.A., )  
OPPOSER, )

v. )

SUGARLOAF FARMING CORP., )  
APPLICANT. )

OPPOSITION No.: 91153791

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TRADEMARK TRIAL AND  
APPEAL BOARD

BOX TTAB - NO FEE  
ASSISTANT COMMISSIONER FOR TRADEMARKS  
2900 CRYSTAL DRIVE  
ARLINGTON, VA 22202-3513

**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION**

**COUNT 1 - LIKELIHOOD OF CONFUSION AND UNFAIR COMPETITION**

Applicant, SUGARLOAF FARMING CORP., for its answer to the Notice of Opposition filed by Opposer, MOULIN ROUGE S.A. ("Opposer"), against application for registration of the mark LE MOULIN ROUGE, Serial No. 75/907,511, filed on February 1, 2000, and published in the Official Gazette of September 10, 2002, answers the Notice of Opposition as follows:

1. Answering paragraph 1 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.
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 admits that, according to the Patent & Trademark Office ("PTO") web site, U.S. Registration No. 2,667,568 is for the mark MOULIN ROUGE for entertainment services, namely live musical stage shows and theater productions in international class 041, which was based on application serial number 75/808,546 filed in the PTO on September 24, 1999. Applicant denies that the application based on this registration was filed on September 14, 1999.

4. Answering paragraph 4 of the Notice of Opposition, Applicant admits that, according to the PTO website, U.S. Registration No. 2,667,569 is for the mark MOULIN ROUGE PARIS for entertainment services, namely, live musical stage shows and theater productions in international class 041, which was based on application serial number 75/808,547 filed in the PTO on September 24, 1999.

5. Answering paragraph 5 of the Notice of Opposition, Applicant admits that, according to the PTO website, U.S. Application Serial No. 76/399,350 is for the mark MOULIN ROUGE for perfume, cosmetics and body care products, namely, hair lotions, toilet soap, bath soap, and body wash in international class 003, which was filed in the PTO on April 22, 2002.

6. Answering paragraph 6 of the Notice of Opposition, Applicant admits that it filed its application serial No. 75/907,511 with the PTO on February 1, 2000 for wines in class 033, and published for opposition on September 10, 2002. Applicant denies all other allegations contained in paragraph 6.

7. Answering paragraph 7 of the Notice of Opposition, Applicant denies the allegations.

8. Answering paragraph 8 of the Notice of Opposition, Applicant denies the allegations.

9. Answering paragraph 9 of the Notice of Opposition, Applicant denies the allegations.

10. Answering paragraph 10 of the Notice of Opposition, Applicant denies the allegations.

11. Answering paragraph 11 of the Notice of Opposition, Applicant denies the allegations.

#### **COUNT II – DILUTION**

12. Answering paragraph 12 of the Notice of Opposition, Applicant incorporates its answers to paragraphs 1-10, inclusive, as set forth above and hereby incorporates same as if fully set forth herein.

13. Answering paragraph 13 of the Notice of Opposition, Applicant denies the allegations.

#### **COUNT III – FALSE SUGGESTION OF A CONNECTION**

14. Answering paragraph 14 of the Notice of Opposition, Applicant incorporates its answers to paragraphs 1-12, inclusive, as set forth above and hereby incorporates same as if fully set forth herein.

15. Answering paragraph 15 of the Notice of Opposition, Applicant denies the allegations.

15. (sic) Answering paragraph 15 of the Notice of Opposition, Applicant denies the allegations.

16. Answering paragraph 16 of the Notice of Opposition, Applicant denies the allegations.

## AFFIRMATIVE DEFENSES

FIRST. There is no likelihood of confusion, dilution, false suggestion of a connection, mistake or deception because, inter alia, Applicant's mark as used in commerce is not confusingly similar to the pleaded mark of the Opposers and the goods and/or services for which the marks are used are such that confusion is not likely to occur.

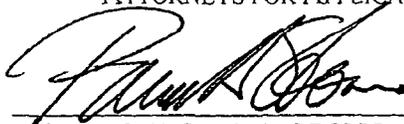
SECOND. Upon information and belief, Applicant has prior rights in its mark in the United States since its first date of use in the United States precedes that of Opposer.

THIRD. Laches bars Opposer's claims since it has delayed bringing forth its complaints for at least three years, without any objection whatsoever to Applicant's use, causing considerable prejudice to Applicant.

WHEREFORE, APPLICANT REQUESTS THAT THE NOTICE OF OPPOSITION BE DISMISSED IN ITS ENTIRETY, AND THAT THE REGISTRATION BE ISSUED TO APPLICANT FOR ITS MARK.

RESPECTFULLY SUBMITTED,

ORRICK, HERRINGTON & SUTCLIFFE LLP  
ATTORNEYS FOR APPLICANT



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DATE: FEBRUARY 20 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A COPY OF THE FOREGOING APPLICANT'S ANSWER TO NOTICE OF OPPOSITION WAS MAILED FIRST-CLASS MAIL, POSTAGE PREPAID, TO ROZAN & NILSON, LLP, 420 LEXINGTON AVENUE, SUITE 850, NEW YORK, NY 10170, ATTORNEY FOR OPPOSERS, THIS 20 DAY OF FEBRUARY, 2003.

  
COLEEN F. THOMAS