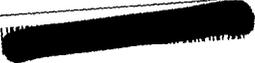


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CHEF AMERICA, INC.,)
)
 Opposer,)
)
 v.)
)
 SULEIMAN SAM SULA)
)
 Applicant.)

Opposition No. _____
Serial No. 76/269,749
Published September 24, 2002


10-11-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #10

NOTICE OF OPPOSITION

Opposer, Chef America, Inc. ("Opposer"), believes that it will be damaged by registration of the mark PIZZA LA POCKET by Applicant Suleiman Sam Sula, ("Applicant"), and opposes the same. The grounds for opposition are as follows:

1. Opposer manufactures and markets packaged food products. Among the products marketed by Opposer are several lines of frozen stuffed sandwiches, consisting of various fillings wrapped inside a layer of bread, dough or pastry.

2. Opposer's predecessor introduced its first line of frozen stuffed sandwiches under the HOT POCKETS trademark in 1982.

3. On March 27, 1984, Opposer's predecessor received Registration No. 1,271,973 of the mark HOT POCKETS (& Design) for "pre-cooked, ready-to-eat, frozen bread having a fruit, meat and/or vegetable filling." Opposer has complied with all requirements necessary to maintain this registration, which is now incontestable under 15 U.S.C. § 1065. A true and correct copy of Registration No. 1,271,973 is attached as Exhibit

A.

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4. On April 21, 1999, Opposer received Registration No. 2,151,684 for the mark HOT-POCKETS for "pre-cooked, ready-to-eat, frozen bread having a fruit, meat and/or vegetable filling." A true and correct copy of Registration No. 2,151,684 is attached as Exhibit B.

5. In addition to its HOT POCKETS marks, Opposer is also the owner of several other federal registrations for marks including the element "POCKETS," including: LUNCH POCKETS (Reg. No. 1,825,910) for "pre-cooked, ready-to-eat frozen bread having a fruit, meat and/or vegetable filling" and CROISSANT POCKETS (Reg. No. 1,982,990) for "pre-cooked, ready-to-eat frozen bread having a fruit, meat, pizza and vegetable filling," and HOT POCKETS PIZZA MINIS (Reg. No. 2,257,960) for "pastries having a filling of meat, cheese, vegetables, fruit, individually and with combinations of the foregoing fillings," and others, which the consuming public uniquely associates with Opposer (hereinafter, "Opposer's POCKETS Marks"). Copies of Registration Nos. 1,825,910, 1,982,990 and 2,257,960 are attached as Exhibits C, D and E respectively.

6. Opposer has expended substantial sums of money in developing purchaser recognition for Opposer's POCKETS Marks. Since beginning use of the HOT POCKETS mark in 1982, Opposer has extensively advertised products provided under its marks.

7. Applicant has filed application Serial No. 76/269,749 to register the mark PIZZA LA POCKET for "stuffed pizza enfolded in a pocket of dough." This application was published for opposition on September 24, 2002.

8. Applicant's PIZZA LA POCKET mark is confusingly similar to Opposer's POCKETS Marks in appearance, sound, and commercial meaning.

9. The products identified by application Serial No. 78/077,654 are identical or closely related to the food products sold under Opposer's POCKETS Marks and are likely to be sold to the same or similar customers through the same wholesale and retail channels of trade. Neither Opposer's registrations nor Applicant's application are restricted as to customers, channels of distribution, or advertising media.

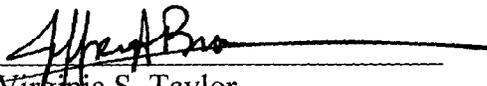
10. Opposer will be damaged by registration of Applicant's PIZZA LA POCKET mark because the mark so resembles Opposer's POCKETS Marks as to be likely to cause confusion, mistake, and deception, particularly in view of the closely related nature of the parties' goods.

11. Persons familiar with Opposer's marks and goods would be likely to erroneously believe that Applicant's goods are products of Opposer or are authorized, licensed, endorsed, or sponsored by Opposer, and registration of Applicant's mark on the Principal Register would be inconsistent with Opposer's rights in its POCKETS Marks.

12. A duplicate copy of this Notice of Opposition and the required fee of \$300.00 are enclosed. **The Commissioner is authorized to debit Kilpatrick Stockton LLP deposit account no. 11-0860 if there is a deficiency in the required fee.**

WHEREFORE, Opposer requests that the Board refuse registration of the application for PIZZA LA POCKET (Ser. No. 76/269,749), and sustain this Opposition in favor of Opposer.

Respectfully Submitted,


Virginia S. Taylor
Michael W. Rafter
Jeffrey A. Brown
Kilpatrick Stockton LLP
Suite 2800, 1100 Peachtree St., NE
Atlanta, GA 30309-4530
(404) 815-6500

Attorneys for Chef America, Inc.

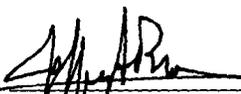
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CHEF AMERICA, INC.,)	
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Opposer,)	
)	Opposition No. _____
v.)	Serial No. 76/269,749
)	Published September 24, 2002
SULEIMAN SAM SULA)	
)	
Applicant.)	

CERTIFICATE OF MAILING

I hereby certify that this NOTICE OF OPPOSITION is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Box TTAB FEE, Arlington, Virginia 22202-3515, on this the 7th day of October, 2002.

Respectfully submitted,


Jeffrey A. Brown

Attorney for Opposer
Chef America, Inc.

2280-110

Int. Cl.: 29

Prior U.S. Cl.: 46

g. No. 1,271,973

Registered Mar. 27, 1984

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Amended

Reg. No. 1,271,973

Registered Mar. 27, 1984

OG Date June 6, 1989

TRADEMARK
PRINCIPAL REGISTER

HOT POCKETS

GENERAL AMERICAN FOODS MANUFACTURING CORPORATION (CALIFORNIA CORPORATION)
14657 LULL ST.
VAN NUYS, CA 91405

MEAT AND/OR VEGETABLE FILLING,
IN CLASS 29 (U.S. CL. 46).

FIRST USE 3-3-1982; IN COMMERCE
3-3-1982.

FOR: PRE-COOKED, READY-TO-EAT,
FROZEN BREAD HAVING A FRUIT.

SER. NO. 364,276, FILED 5-12-1982.

READY-TO-EAT, FROZEN
FRUIT, MEAT
FILLING, in CLASS 29

in Commerce Mar. 3, 1982.

Mar. 12, 1982.

Attorney

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on June 6, 1989.*

REGISTRATION
WITH NOTATION
HEREON, AS DISCLOSED
IN UNITED STATES PATENT
OFFICE RECORDS SHOW TITLE

COMMISSIONER OF PATENTS AND TRADEMARKS

PATENTS
OFFICE

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,151,684

Registered Apr. 21, 1998

**TRADEMARK
PRINCIPAL REGISTER**

HOT-POCKETS

**CHEF AMERICA, INC. (CALIFORNIA CORPORATION)
20 INVERNESS PLACE EAST
ENGLEWOOD, CO 80112**

**FOR: PRE-COOKED, READY-TO EAT,
FROZEN BREAD HAVING A FRUIT, MEAT,
CHEESE AND/OR VEGETABLE FILLING, IN
CLASS 30 (U.S. CL. 46).**

**FIRST USE 7-0-1993; IN COMMERCE
7-0-1993.**

**OWNER OF U.S. REG. NOS. 1,271,973,
1,566,174, AND 1,909,387.**

SER. NO. 75-070,972, FILED 3-11-1996.

BARBARA A. LOUGHRAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,825,910

Registered Mar. 8, 1994

**TRADEMARK
PRINCIPAL REGISTER**

LUNCH POCKETS

GENERAL AMERICAN FOODS MANUFACTURING CORPORATION (CALIFORNIA CORPORATION)
9601 CANOGA AVENUE
CHATSWORTH, CA 91311

FOR: PRE-COOKED, READY-TO-EAT FROZEN BREAD HAVING A FRUIT, MEAT AND/OR VEGETABLE FILLING. IN CLASS 30 (U.S. CL. 46).

FIRST USE 6-30-1992; IN COMMERCE 6-30-1992.

OWNER OF U.S. REG. NOS. 1,271,973, 1,566,174, AND OTHERS.

SN 74-242,561, FILED 2-3-1992.

DARLENE BULLOCK, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,982,990

Registered June 25, 1996

**TRADEMARK
PRINCIPAL REGISTER**

CROISSANT POCKETS

**CHEF AMERICA, INC. (CALIFORNIA CORPORATION)
9601 CANOGA AVENUE
CHATSWORTH, CA 913114115**

**FOR: PRE-COOKED, READY-TO-EAT
FROZEN BREAD HAVING A FRUIT, MEAT,
PIZZA AND VEGETABLE FILLING, IN CLASS
30 (U.S. CL. 46).**

**FIRST USE 8-21-1995; IN COMMERCE
8-21-1995.**

**OWNER OF U.S. REG. NOS. 1,271,973,
1,859,222, AND OTHERS.**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "CROISSANT", APART FROM
THE MARK AS SHOWN.**

SN 74-552,162, FILED 7-21-1994.

ZHALEH DELANEY, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,257,960

United States Patent and Trademark Office

Registered June 29, 1999

**TRADEMARK
PRINCIPAL REGISTER**

HOT POCKETS PIZZA MINIS

CHEF AMERICA, INC. (CALIFORNIA CORPORATION)
20 INVERNESS PLACE EAST
ENGLEWOOD, CO 80112

FOR: PASTRIES HAVING A FILLING OF MEAT, CHEESE, VEGETABLES, FRUIT, INDIVIDUALLY AND WITH COMBINATIONS OF THE FOREGOING FILLINGS, IN CLASS 30 (U.S. CL. 46).

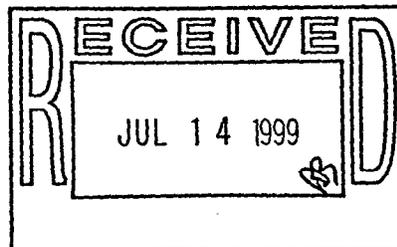
FIRST USE 11-7-1997; IN COMMERCE 11-13-1997.

OWNER OF U.S. REG. NO. 1,982,990.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PIZZA MINIS", APART FROM THE MARK AS SHOWN.

SN 75-369,213, FILED 10-7-1997.

NORA BUCHANAN WILL, EXAMINING ATTORNEY



 **KILPATRICK
STOCKTON LLP**
Attorneys at Law

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Atlanta GA 30309-4530
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www.KilpatrickStockton.com

October 7, 2002

direct dial 404 532 6963
JBrown@KilpatrickStockton.com

Assistant Commissioner for Trademarks
2900 Crystal Drive, Box TTAB FEE
Arlington, Virginia 22202-3515

10-11-2002

U.S. Patent & TMOfe/TM Mail Rcpt Dt. #10

Re: Opposer: Chef America, Inc.
Applicant: Suleiman Sam Sula
Mark: PIZZA LA POCKET
Ser. No.: 76/269,749
Our Ref.: C0310.262596

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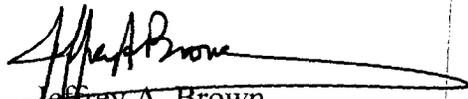
TRADEMARK TRIAL AND
APPEAL BOARD

Dear Sir/Madam:

Enclosed are an original and a copy of **Opposer's Notice of Opposition**.
Please acknowledge receipt of the enclosures by initialing and dating the enclosed postcard
and returning it to me.

Thank you for your assistance.

Sincerely,


Jeffrey A. Brown

Enclosures

cc: Virginia A. Taylor, Esq.
Michael W. Rafter, Esq.