

Serial No. 76/334,729

of extensive good will and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion.

2. Opposer has built a large and profitable business in connection with the production, distribution, and sale of brewed alcoholic beverages rendered under its series of "Moose" marks.

3. Opposer is the owner of the following U.S. trademark registrations:

<u>Registration Number</u>	<u>Mark</u>	<u>Goods/Services</u>
319,946	MOOSEHEAD PALE ALE & DESIGN	ale, beer, stout, porter and lager
1,198,187	MOOSEHEAD BEER CANADIAN LAGER & MOOSE DESIGN	beer and lager
1,217,629	MOOSEHEAD BEER CANADIAN LAGER & MOOSE DESIGN	shirts
1,511,184	MOOSEHEAD	beer
1,514,776	MOOSEHEAD LIGHT CANADIAN BEER & MOOSE DESIGN	beer
1,527,256	MOOSE DESIGN	beer
1,568,703	MOOSE & DESIGN	beer
1,597,390	MOOSE DESIGN	banners, bar sign and crests made of paper; drinking glasses, mugs, serving trays, plastic cups, insulated beverage holders, and portable insulated containers for food and beverage; clothing, namely, sweaters, football jerseys, mesh ball

Serial No: 76/334,729

Registration
Number

Mark

Goods/Services

		caps, winter ball caps, painter hats, aprons, golf shirts sports shirts, t-shirts, long john shirts, 3/4 ball shirts, hockey sweaters, cowboy hats
1,598,511	MOOSEHEAD	banners, bar signs and crests made of paper; tote bags; drinking glasses, mugs, serving trays, plastic cups, insulated beverage holders, and portables insulated containers for food and beverage; clothing, namely, sweaters, football jerseys, mesh ball caps, winter ball caps, painter hats, aprons, golf shirts, sports shirts, t-shirts, long john shirts, 3/4 ball shirts, hockey sweaters, cowboy hats
1,621,134	THE MOOSE IS LOOSE	posters, bumper stickers and windshield stickers made of paper; playing cards, decals, and pens, clothing, namely, aprons; ball caps, painter hats, summer mesh hats, summer stripe hats, winter corduroy hats, and sun visors; shirts, polo shirts, sweatshirts and t-shirts; socks, baseball uniforms, hockey uniforms, and football jerseys; neckties, sweaters; and jackets

Serial No: 76/334,729

<u>Registration Number</u>	<u>Mark</u>	<u>Goods/Services</u>
2,100,821	MOOSE	brewed alcoholic beverages, namely, beer, ale, stout and lager
2,223,462	MOOSEHEAD QUALITY & TRADITION & DESIGN	beer and ale
2,475,614	HEAD OF MOOSE & DESIGN	brewed alcoholic beverages, namely, beer, ale, and lager
2,534,345	MOOSE MILK & DESIGN	liquor

Each of the above-registrations are in full force and effect on the Principal Register at the United States Patent and Trademark Office, and operate as prima facie evidence of Opposer's ownership of said marks and its exclusive right to use the same in commerce throughout the United States. Further, a majority of these registrations are "incontestable", and thereby act as conclusive evidence of Opposer's ownership of said marks and exclusive right to use said marks in commerce throughout the United States.

4. In addition to those registrations listed above, Opposer has used other marks which contain the term "Moose", as a part thereof, for alcoholic beverages, and other related goods and services. These include the marks, THE MOOSE IS LOOSE and MOOSE BREW. Each of these marks is presently in use, and were in use long prior to the filing date of Applicant's intent-to-use application.

Serial No: 76/334,729

5. By virtue of extensive sales in commerce under Opposer's series of "MOOSE" marks in the United States, the relevant trade and public has come to associate goods and services provided under said marks with Opposer, thereby creating a valuable reputation for such goods and services.

6. Opposer continues to expand its product line and product names under its series of "MOOSE" marks. Opposer markets a wide range of promotional products including, but not limited to, clothing, glassware, mugs, other wearables, and memorabilia used to promote Opposer's principal products, beer and ale.

7. On November 5, 2001, Applicant, CRUISERINO'S LLC, filed an application for registration of the mark MOOSEJAW PIZZA & BREWING CO., for restaurant services featuring pizza; bar services, based on an intent-to-use the mark in commerce.

8. Upon information and belief, Applicant did not use its mark in commerce prior to filing its application, so priority is not an issue in this Opposition Proceeding.

9. Opposer's use of its series of "MOOSE" marks pre-dates any claimed date of first use by Applicant.

10. Applicant's mark, MOOSEJAW PIZZA & BREWING CO., is confusingly similar to Opposer's aforementioned marks, and Applicant's registration and use of said mark in connection with its services is likely to cause confusion, deception, and mistake among purchasers.

11. Applicant's services and Opposer's goods and

Serial No: 76/334,729

services are related, and are such that would be advertised and sold to an overlapping class of purchasers. In view of the similarities between Opposer's trademarks and Applicant's mark, and the related nature of the goods and services used with the respective marks, Applicant's mark so resembles Opposer's marks, previously used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive, to the irreparable damage of Opposer.

12. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a prima facie exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer and Opposer's business.

WHEREFORE, Opposer prays that application Serial No. 76/334,729, be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

MOOSEHEAD BREWERIES LIMITED

Date: December 2, 2002

By: _____


James E. Shlesinger
Daniel T. Earle
Attorneys for Opposer

SHLESINGER, ARKWRIGHT &
GARVEY, LLP
3000 South Eads Street
Arlington, Virginia 22202
(703) 684-5600

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TTAB

SHLESINGER, ARKWRIGHT & GARVEY LLP

PATENT, TRADEMARK & COPYRIGHT LAW

ESTABLISHED 1950

3000 SOUTH EADS STREET
ARLINGTON, VIRGINIA 22202
TELEPHONE: (703) 684-5600

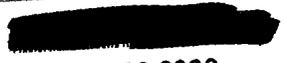
FAX: (703) 836-5288
FAX: (703) 836-5698

OF COUNSEL
B. EDWARD SHLESINGER, JR.
GEORGE A. ARKWRIGHT
GEORGE A. GARVEY
DONALD C. KOLASCH

JAMES E. SHLESINGER
JOSEFINO P. DE LEON
MICHAEL M. ZADROZNY*
TERRENCE L.B. BROWN*
DANIEL T. EARLE

BRIAN J. MARTON
REG. PATENT AGENT

*ADMITTED TO A BAR OTHER THAN VIRGINIA



12-02-2002

U.S. Patent & TMO/TM Mail Rcpt. Dt. #40

OUR REF. No.

T-296/02

December 2, 2002

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Attention: Ms. Jean Brown, Administrator,
Trademark Trial and Appeal Board

Re: Opposition to Trademark Application of
Cruiserino's LLC -
Mark: MOOSEJAW PIZZA & BREWING CO.
Serial No: 76/334,729 - Filed: November 5, 2001
Published: June 4, 2002, at page TM 757
Our Docket No. T-296/2002

TRADEMARK FEE PROCESS
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U.S. PATENT &
TRADEMARK OFFICE

Dear Ms. Brown:

Accompanying this letter are opposition papers submitted in triplicate, together with a check in the amount of \$300.00 to cover the government filing fee. If the amount of the check is insufficient, the U.S. Patent and Trademark Office is authorized to charge the deficiency to Deposit Account No. 19-2105, and to notify the undersigned in due course. It is requested that an opposition proceeding be commenced against the above-identified trademark application.

Communications with Opposer should be directed to Opposer's below-identified attorneys. Any telephone calls regarding this letter should be directed to Daniel T. Earle at (703) 684-5600.

Very truly yours,

James E. Shlesinger
Daniel T. Earle
SHLESINGER, ARKWRIGHT & GARVEY LLP
3000 South Eads Street
Arlington, Virginia 22202
(703) 684-5600

DTE/ds
Enclosures

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