

TTAB

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

In the Matter of:  
Trademark Application Serial No. 76/308,904  
Filed: September 6, 2001  
For the Mark: **UNA MAS! (Logo)**  
Published in the *Official Gazette* on June 25, 2002



08-26-2002

U.S. Patent & TMO/TM Mail Rep Dt. #70

02 AUG 30 PM 8:44  
TRADEMARK TRIAL AND  
APPEAL BOARD

\_\_\_\_\_  
KEVIN T. McCARNEY dba  
POQUITO MAS  
  
Opposer  
  
v.  
  
UNA MAS, INC.  
  
Applicant  
\_\_\_\_\_

Opposition No. \_\_\_\_\_

08/28/2002 KBEACH 00000138 76308904

01 FC:377

300.00 OP

NOTICE OF OPPOSITION

BOX TTAB - FEE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3515

I hereby certify that this correspondence 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, Arlington, VA 22202-3513, on 08-22-02

Nancy M. Gram  
(SIGNATURE)  
August 22, 2002

Kevin T. McCarney, dba Poquito Mas (hereinafter "Opposer"), a business enterprise organized and existing under the laws of the state of California, having its principal place of business at 10651 Magnolia Boulevard, North Hollywood, California 91601, believes it will be damaged by registration of the mark shown in Application Serial No. 76/308,904, filed September 6, 2001 (hereinafter "subject application"), and hereby opposes registration of the subject application.

COUNT 1

1. Opposer is the owner of United States Trademark Registration No. 1,892,451 for the mark POQUITO MAS for restaurant services.

2. Upon information and belief, Una Mas, Inc. (hereinafter "Applicant"), filed the subject application for UNA MAS! (Logo) for restaurant services in International Class 42 on September 6, 2001.

3. UNA MAS! (Logo) consists of or comprises a phrase which so resembles Opposer's registered POQUITO MAS mark as to be likely, when used on or in connection with the services sought to be registered by Applicant, to cause confusion or to cause mistake, or to deceive in violation of 15 U.S.C. §1052(d).

4. UNA MAS! (Logo), as allegedly used by Applicant, is confusingly similar to the POQUITO MAS mark which is the subject of Opposer's above cited registration, and registration of UNA MAS! (Logo) to Applicant is therefore likely to cause confusion, or to cause mistake, or to deceive in violation of 15 U.S.C. §1052(d) and would damage Opposer.

### COUNT 2

5. Opposer hereby incorporates the allegations of paragraphs 1-4 as if stated herein.

6. Upon information and belief, Applicant did not use UNA MAS! (Logo) for the services recited in its application prior to 1991.

7. Upon information and belief, Applicant did not use UNA MAS! (Logo) for the services recited in its application prior to September 1999.

8. Upon information and belief, Applicant did not use UNA MAS! (Logo) for the services recited in its application prior to 1990.

9. Opposer is now and for many years has been engaged in providing restaurant services.

10. Opposer has been using the POQUITO MAS trademark to identify its restaurant services long prior to the first use date set forth in Applicant's application.

11. Opposer has continuously used its POQUITO MAS trademark to identify its restaurant services since October 1984, and continues such use to this day.

12. Since long prior to the first use date of Applicant's application for UNA MAS! (Logo), Opposer has extensively advertised and promoted its restaurant services under the POQUITO MAS trademark.

13. Applicant's UNA MAS! (Logo) application consists of or comprises a phrase which, if used, would so resemble Opposer's POQUITO MAS mark, as to be likely, when used on in connection with the services sought to be registered by Applicant, to cause confusion, or to cause mistake, or to deceive in violation of 15 U.S.C. §1052(d).

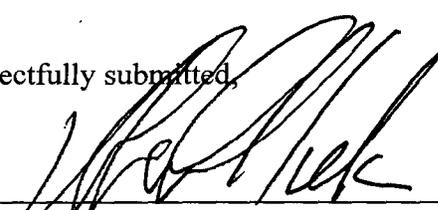
14. UNA MAS! (Logo), as allegedly used by Applicant, is confusingly similar to the POQUITO MAS mark of Opposer, and registration of UNA MAS! (Logo) to Applicant is therefore likely to cause confusion, or to cause mistake, or to deceive in violation of 15 U.S.C. §1052(d), and would damage Opposer.

**PRAYER FOR RELIEF**

WHEREFOR, Opposer prays that Applicant Serial No. 75/308,904 be denied, and that no registration be issued to Applicant and that this opposition be sustained.

A check for the filing fee of \$300.00 is presented herewith. It is requested that any additional fees be charged to Deposit Account No. 06-0308. It is further requested that all correspondence in this matter be addressed to the undersigned.

Respectfully submitted,

By: 

Phone: (216) 861-5582

ROBERT V. VICKERS (Reg. No. 19,504)  
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP  
1100 Superior Avenue - Seventh Floor  
Cleveland, Ohio 44114  
Attorney for Opposer