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

C & K IMPORTING CO., INC, a
Corporation of the State of California

Opposer

vs.

ERIC GREEN, an Individual

Applicant

) Opposition No.
) Re: Application Serial No. 78149354
) Mark: CRISTOS
) Filed: July 31, 2002
) Published: April 15, 2003
)
) NOTICE OF OPPOSITION
)
)
)

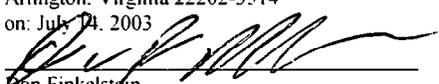
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07-18-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #11

COMES NOW C & K IMPORTING CO., INC., (hereinafter "Opposer") a Corporation duly organized and existing under the laws of the State of California, having its principal place of business at 2771 West Pico Blvd., Los Angeles, CA 90006 believes it will be damaged by the registration of the mark CRISTOS shown in Application Serial No. 78149354, Applicant: Eric Green, an individual, having an address of 14100 Four Winds Road, Riverside, CA 92503 (hereinafter "Applicant"), and hereby opposes registration of said mark CRISTOS.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail addressed to:
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514
on: July 14, 2003

Ron Finkelstein
Dated: July 14, 2003

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The grounds for this Opposition are as follows:

1. Applicant is purportedly the owner of U. S. Intent-To-Use Trademark Application Serial No. 78149354 for the mark CRISTOS for alleged intended use on or in connection with COFFEE (hereinafter Applicant's goods") in international class 030.

2. Said Application Serial No. 78149354 was purportedly filed by Applicant in the U.S. Patent and Trademark Office on or about July 31, 2002 based upon Applicant's alleged *bona fide* intention to use the mark CRISTOS in commerce on or in connection with COFFEE in the United States.

3. Upon information and belief, Applicant has not filed a Statement of Use in the U.S. Patent and Trademark Office in said Application Serial No. 78149354 in connection with Applicants's purported mark CRISTOS.

4. On information and belief, according to the records in the U.S. Patent and Trademark Office said Application Serial No. 78149354 was published for Opposition in the Official Gazette of the Patent and Trademark Office on April 15, 2003.

5. Opposer is the owner of the trademark PAPA CRISTO'S for use on or in connection with: OLIVE OIL, GREEK OLIVE OIL, FLAVORED OLIVE OIL, SALAD DRESSING, SPICED BUTTER, TRAUMA SALTA, GREEK YOGURT, FUTA SUN DRIED TOMATO, GREEK SEASONINGS, SALT, PEPPER, GARLIC, ONION, OREGANO, RED WINE VINEGAR, HUMMOS, BAKLAVA, SPANAKOPITES, TIROPITES, SKORDALIA, FLAFEL MIX, KOPANISTI, KOULOURAKIA COOKIES, WHOLE WHEAT FILLO, KATAIF, KOURAMBIEDES. MELOMAKARONA, GALATOBAKLAVA, TZATZIKI,

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COFFE, KALAMATA OLIVES, GREEN OLIVES, PITTED OLIVES, in Class 029;

and for: RESTAURANT SERVICES, in class: 042 (hereinafter "OPPOSER'S GOODS/SERVICES").

6. Opposer is the owner of the use based Trademark Application for the mark PAPA CRISTO'S filed in the U.S. Patent and Trademark Office on February 24, 2003 for use of the mark PAPA CRISTO'S on or in connection with goods comprising: OLIVE OIL, GREEK OLIVE OIL, FLAVORED OLIVE OIL, SALAD DRESSING, SPICED BUTTER, TRAUMA SALTA, GREEK YOGURT, FUTA SUN DRIED TOMATO, GREEK SEASONINGS, SALT, PEPPER, GARLIC, ONION, OREGANO, RED WINE VINEGAR, HUMMOS, BAKLAVA, SPANAKOPITES, TIROPITES, SKORDALIA, FLAFEL MIX, KOPANISTI, KOULOURAKIA COOKIES, WHOLE WHEAT FILLO, KATAIF, KOURAMBIEDES. MELOMAKARONA, GALATOBAKLAVA, TZATZIKI COFFE, KALAMATA OLIVES, GREEN OLIVES, PITTED OLIVES, in Class 029; and for: RESTAURANT SERVICES, in class: 042 alleging a date of first use and first use in commerce on the goods in class 029 of at least as early November 1, 1991 and alleging a date of first use and first use in commerce of at least as early as 1988 of said mark PAPA CRISTO'S on the services in class 042..

7. Opposer has continuously used said mark PAPA CRISTO'S on or in connection with OPPOSER'S GOODS/SERVICES set forth in paragraphs 5 and 6 above in inter state commerce long prior to the alleged filing date of Applicant's intent to use Application. On information and belief, Opposer has continuously used said mark PAPA CRISTO'S on or in connection with OPPOSER'S GOODS/SERVICES set forth in paragraphs 5 and 6 above in inter

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state commerce long prior to any alleged use by Applicant of the mark CRISTOS in interstate commerce or at all. Opposer has priority of use of the mark PAPA CRISTO'S.

8. Through extensive use and sales, the PAPA CRISTOS mark of Opposer has become well recognized by the purchasing public. Opposer has invested a great deal of money and effort in promoting the OPPOSER'S GOODS/SERVICES sold/rendered under and in connection with the PAPA CRISTO'S mark and Opposer is continuing to spend substantial amounts of money in promoting such goods. By the aforesaid extensive use of the PAPA CRISTO'S mark and by the promotional efforts in connection therewith, Opposer has built up a valuable goodwill associated with the PAPA CRISTO'S mark, and because of such use and promotion, the PAPA CRISTO'S mark has become associated with Opposer in the minds of the public in connection with the above mentioned OPPOSER'S GOODS/SERVICES of Opposer.

9. Opposer's mark PAPA CRISTO'S is arbitrary and fanciful when applied to the OPPOSER'S GOODS/SERVICES of Opposer as above set forth. By virtue of its long and continuous, exclusive and widespread use by Opposer, the PAPA CRISTO'S mark has become well known and Opposer is entitled to a broad scope of protection for the PAPA CRISTO'S mark.

10. Applicant's mark, CRISTOS, when applied to the goods, namely coffee, designated in Application Serial No. Serial No. 78149354, is confusingly similar to the PAPA CRISTO'S mark of Opposer as used on, *inter alias* coffee, and is likely to cause confusion, mistake, or deception amongst the general and consuming public as to whether Applicant's goods originate with Opposer, or are licensed, authorized or sponsored by Opposer or are promoted with

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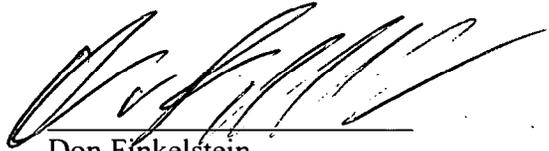
Opposer's approval. Additionally, Applicant's mark CRISTOS is likely to denigrate and/or disparage Opposer and/or OPPOSER'S GOODS/SERVICES as above set forth in the minds of the general and consuming public.

11. By reason of the foregoing. Applicant's registration of the mark CRISTOS herein is opposed as such registration will cause injury and damage to Opposer, and to Opposer's rights in and to Opposer's mark PAPA CRISTO'S and to the use thereof as described herein.

13. A duplicate copy of this Notice of Opposition and the undersigned's check No. 3988 in the amount of \$300.00 for the statutory filing fee for the Notice of Opposition in one class are enclosed herewith.

WHEREFORE, the Opposer prays that this opposition be sustained and that Application Serial No. Serial No. 78149354 be denied registration.

Respectfully submitted,



Don Finkelstein
Attorney for Opposer
C & K IMPORTING CO., INC
Date: July 14, 2003

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