

ESTTA Tracking number: **ESTTA7230**

Filing date: **04/05/2004**

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

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Name	Brach's Confections Holding Inc.
Granted to Date of previous extension	05/05/2004
Address	Brach's Confections Holding Inc. 19111 N. Dallas Parkway, Suite 200 Dallas, TX 75287 UNITED STATES

Attorney information	Sarah Anne Keefe Womble Carlyle Sandridge & Rice, PLLC PO Box 831 Raleigh, NC 27602 UNITED STATES skeefe@wcsr.com Phone:919-755-2115
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Applicant Information

Application No	78252813	Publication date	01/06/2004
Opposition Filing Date	04/05/2004	Opposition Period Ends	05/05/2004
Applicant	Pridgen, David W		
Address	3111 farmtrail Rd York, PA 17402 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: First Use In Commerce:
All goods and services in the class are opposed, namely: dairy products, namely, milk, flavored milk, chocolate milk

Signature	/Sarah Anne Keefe/
Name	Sarah Anne Keefe
Date	04/05/2004

Attachments	DEM BONES Opposition.tif (1 page)
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 78/252,813
Filed May 21, 2003
For the Mark DEM BONES

BRACH'S CONFECTIONS HOLDING INC.,)

Opposer,)

v.)

DAVID W. PRIDGEN,)

Applicant.)

Opposition No.

NOTICE OF OPPOSITION

Brach's Confections Holding Inc. ("Opposer"), a Delaware corporation located and doing business at 19111 N. Dallas Parkway, Suite 200, Dallas, TX 75287, believes that it will be damaged by registration of the mark shown in Serial No. 78/252,813 and hereby opposes the same.

The grounds for opposition are as follows:

1. Applicant filed Application Serial No. 78/252,813 on or about May 21, 2003 to register the mark DEM BONES in connection with "dairy products, namely milk, flavored milk, chocolate milk" (hereinafter "Applicant's Mark").
2. Opposer will be damaged by the registration of Applicant's Mark.
3. Opposer is the owner of the following:
 - (a) U. S. Trademark Registration No. 1,836,318 for the mark "DEM BONES" in connection with candy.
 - (b) The mark and registration set out in Section 3(a) are hereinafter collectively referred to as "Opposer's Mark."

Notice of Opposition
Serial No. 78/252,813

4. Opposer itself, or by and through a related company or licensee, is using Opposer's Mark in commerce on and in connection with the goods identified in Section 3(a) above.

5. Opposer's Mark was first used in commerce commenced at least as early as August 6, 1993 and such use has been valid and continuous since its date of first use. Opposer's Mark has not been abandoned.

6. Opposer's Mark is valid, distinctive, famous and well-known.

7. Opposer's Mark is incontestable.

8. Applicant's Mark so resembles Opposer's Mark as to be likely to cause confusion or to cause mistake or to deceive.

9. Applicant's Mark dilutes the distinctive quality of Opposer's Mark.

WHEREFORE, Opposer prays that said application Serial No. 78/252,813 be rejected, that no registration be issued, and that this Opposition be sustained in favor of Opposer.

Sarah Anne Keefe
Maury M. Tepper III
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
Post Office Box 831
Raleigh, North Carolina 27602
Phone: (919) 755-2100
Fax: (919) 755-2150

Attorneys for Opposer