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

_____)		
Malt-O-Meal Company,)		
	Opposer,)	Opposition No. _____
)	
v.)		
)	Serial No.: 78/243,280
Regina Ragonese,)		Mark : BETCHA CAN'T CRUNCH
	Applicant.)	THE ADDICTION!
_____)		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Assistant Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513, on May 26, 2004.

By: 
Name: John A. Clifford

NOTICE OF OPPOSITION

To The Assistant Commissioner for
Trademarks
ATTN: BOX TTAB
2900 Crystal Drive
Arlington, VA 22202-3513

06/07/2004 JBR00KS1 00000101 78243280
01 FC:6402 300.00 OP


06-01-2004
U.S. Patent & TMO/TM Mail Rpt Dt. #39

Dear Sir:

Malt-O-Meal Company, Inc., a corporation duly organized and existing under the laws of Minnesota, with a mailing address of 80 South Eighth Street, 2700 IDS Center, Minneapolis, Minnesota 55402, believes that it will be damaged by the registration of the mark shown in application Serial No. 78/243,280, filed April 29, 2003 by Regina Ragonese an individual with a mailing address of 339 Ipswich Road; Boxford, Massachusetts 01921 and hereby opposes registration of the mark. The grounds for opposition are as follows:

1. By the application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the Principal Register of the trademark BETCHA CAN'T CRUNCH THE ADDICTION! for "crunchy pita chips" (International Class 30). Applicant claims first use of the mark in September of 2002.

2. Opposer is the owner of U.S. Trademark Application No. 75/486,519 filed on December 18, 1998 for the mark BETCHA CAN'T TASTE THE DIFFERENCE for "breakfast cereal" (International Class 30). Opposer has used its mark BETCHA CAN'T TASTE THE DIFFERENCE since at least 1998, has extensively advertised and promoted its mark and has spent considerable sums of money to develop brand awareness and secondary meaning in its mark. Opposer applies its mark to virtually every bag of ready to eat breakfast cereal it sells. Millions of impressions of its mark have been distributed since 1998. Opposer uses its mark on bags filled with product. On information and belief, Applicant also applies its mark to similar bags filled with its product.
3. Applicants' mark is confusingly similar to Opposer's mark. The marks have a confusingly similar meaning, and almost the same appearance, the goods of the parties are closely related and both would be marketed and sold to, and used by the same or closely related consumers.
4. Due to the similarity between Applicant's claimed mark and Opposer's previously used mark and the closely related nature of the goods of the respective parties, consumers and potential consumers are likely to believe that Applicant's products originate from Opposer, resulting in a likelihood of confusion in the marketplace, and damage to Opposer.
5. The use and registration by Applicant of the mark BETCHA CAN'T CRUNCH THE ADDICTION! for Applicant's goods is likely to cause confusion or to cause mistake or deception in the wholesale and retail trade, and among consumers and potential consumers, with Opposer's previously used mark BETCHA CAN'T TASTE THE DIFFERENCE, again resulting in damage to Opposer.
6. Because of the related nature of the goods, and the confusing similarity of the marks, use and registration of the term BETCHA CAN'T CRUNCH THE ADDICTION! by Applicant

is likely to cause confusion, mistake, or deception that Applicant's goods are those of Opposer, or are otherwise endorsed, sponsored, or approved by Opposer causing further damage to Opposer.

7. Registration of the mark shown in Application Serial No. 78/243,280 will result in damage to Opposer under the provisions of §2 (a) and §2 (d) of the U.S. Trademark Act, 15 U.S.C. § 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its opposition to this application be sustained and that the registration of the term BETCHA CAN'T CRUNCH THE ADDICTION! set forth therein be refused.

Please direct all correspondence to the attention of:

John A. Clifford
Merchant & Gould P.C.
P.O. Box 2910
Minneapolis, MN 55402-0910
612-336-4616
Fax: 612-332-9081

Opposer hereby appoints Kristina M. Foudray; Charles E. Golla, Reg. No. 26,896; John W. Albrecht, Reg. No. 40,481; Brian H. Batzli, Reg. No. 32,960; John L. Beard, Reg. No. 27,612; Linda M. Byrne, Reg. No. 32,404; John A. Clifford, Reg. No. 30,247; Gregory C. Golla; John D. Gould, Reg. No. 18,223; Curtis B. Hamre, Reg. No. 29,165; Scott W. Johnston, Reg. No. 39,721; D. Randall King; Anna W. Manville; and Paul A. Welter, Reg. No. 20,890 as its attorneys with the full power to represent the Opposer in connection with this proceeding.

Enclosed is the necessary filing fee of \$300.00. Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725 of Opposer's counsel noted above.

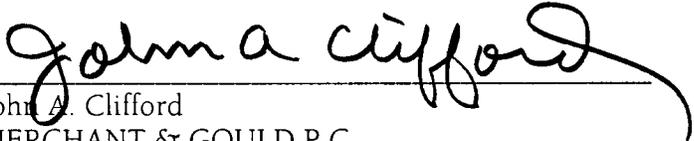
Respectfully submitted,

Malt-O-Meal Company

By its attorneys,

Date:

May 26, 2004



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A Professional Corporation

Malt-O-Meal Company,)
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Mark: BETCHA CAN'T CRUNCH THE ADDICTION!

Serial No.: 78/243,280

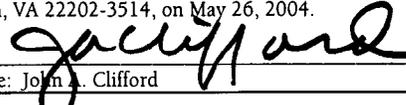
Docket Number: 947.132-US-TB

Official Gazette: January 27, 2004

Due Date: May 26, 2004

Filing Date: April 29, 2003

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on May 26, 2004.

By: 
Name: John A. Clifford

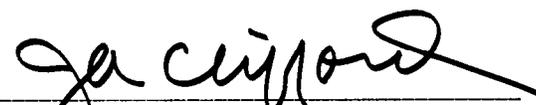
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Dear Commissioner:

We are transmitting herewith the attached:

- Return postcard.
- Transmittal Sheet in duplicate containing Certificate Under 37 C.F.R. 1.8
- Notice of Opposition (1 Original and 1 Copy)

Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate copy of this sheet is enclosed.

By: 
Name: John A. Clifford
Reg. No.: 30,247
JAC/aes

06-01-2004

U.S. Patent & TMOs/TM Mail Rcpt Dt. #39

(CONTESTED MATTER)