

TRADEMARK

Docket No. 110.2*18/MM/N276

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

In the matter of Application No. 76/546,741
For the mark RED RIVER FARMS SCOOPS ICE CREAM in Design
Published in the Official Gazette of October 5, 2004 (the term for opposition having been extended to March 27, 2005)

The Neiman Marcus Group, Inc.

Opposer,

v.

United Supermarkets, Ltd.

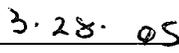
Applicant.

Opposition No.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Trademark Trial and Appeal Board, U. S. Patent and Trademark Office, P.O. Box 1451, Arlington, VA 22313-1451 on March 28, 2005.



Signature



Date

NOTICE OF OPPOSITION

Opposer The Neiman Marcus Group, Inc., a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 1618 Main Street, Dallas, Texas 75201 (hereinafter referred to as "Opposer"), believes that it will be damaged by registration of the mark RED RIVER FARMS SCOOPS ICE CREAM in Design shown in Serial No. 76/546,741 in Class 30, filed September 2, 2003 by applicant United Supermarkets, Ltd. (hereinafter "applicant") and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Since at least as early as 1979, Opposer, and its predecessors (hereinafter collectively referred to as "Opposer") have been continuously engaged in the distribution of various food products through their retail stores, mail order catalogs and, more recently, internet web site.

2. Since long prior to applicant's priority date, Opposer has continuously used in commerce the mark RED RIVER, alone and in combination with various Designs (hereinafter the "RED RIVER Marks") in connection with the sale of a wide variety of food and beverage products. As a result of such continuous use, advertising and promotion, the RED RIVER Marks have acquired a valuable goodwill and reputation which would be jeopardized by the use and registration of applicant's mark.

3. Opposer is the owner of Registration No. 1,288,052 of the mark RED RIVER and Design for a variety of food products in Classes 29 and 30, issued on July 31, 1984. Said registration is valid and subsisting and has become incontestable under the provisions of Section 15 of the Trademark Act.

4. Opposer is the owner of Registration No. 2,209,125 of the mark RED RIVER and Design for a variety of food and beverage products in International Classes 29, 30, 31 and 32, issued on December 8, 1988. Said registration is valid and subsisting and has become incontestable under the provisions of Section 15 of the Trademark Act.

5. The goods for which applicant seeks to register the mark RED RIVER FARMS SCOOPS ICE CREAM in Design, namely, ice cream, are closely related to the food and beverage products for which Opposer has used the RED RIVER Marks since a date prior to applicant's priority date.

6. The mark RED RIVER FARMS SCOOPS ICE CREAM in Design which applicant seeks to register, so resembles Opposer's RED RIVER Marks, continuously used in commerce and registered with the United States Patent and Trademark Office, and not abandoned, as to be likely, when applied to the goods of applicant, to cause confusion, or to cause mistake, or to deceive.

7. Opposer is informed and believes that applicant did not use the mark RED RIVER FARMS SCOOPS ICE CREAM in Design prior to its filing date of September 2, 2003.

8. Opposer is informed and believes that applicant did not use the mark RED RIVER FARMS SCOOPS ICE CREAM in Design in commerce for any of the goods in application Serial No. 76/546,741 prior to applicant's filing date of September 2, 2003.

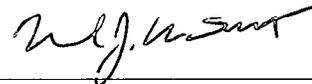
9. Opposer would be damaged by the issuance to applicant of a registration of the mark RIVER FARMS SCOOPS ICE CREAM in Design for the goods in application Serial No. 76/546,741.

WHEREFORE, Opposer prays that this opposition be sustained and that registration of Application Serial No. 76/546,741 be refused.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

Dated: March 28, 2005

By



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TTAB

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Signer

March 28, 2005

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Commissioner:

Enclosed for filing are the following:

1. Notice of Opposition filed by The Neiman Marcus Group, Inc. relating to the following registration application:

MARK : **RED RIVER FARMS SCOOPS ICE CREAM in Design**
Serial No. : 76/546,741
Filed : September 2, 2003
Class(es) : 30
Applicant : United Supermarkets, Ltd.

2. Our check for \$300 for the filing fee.

The Commissioner is authorized upon filing or during prosecution of this opposition to charge any additional fees which may be required or credit any overpayment of fees to Deposit Account No. 03-1728. Please show our docket number with any Deposit Account transaction. **A copy of this letter is enclosed.**

Please address all correspondence to **CHRISTIE, PARKER & HALE, LLP, P. O. Box 7068, Pasadena, California 91109-7068. Customer Number: 23363**

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By _____

Michael J. MacDermott
626/795-9900

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03-31-2005
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #72