

ESTTA Tracking number: **ESTTA48811**

Filing date: **10/14/2005**

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

Notice of Opposition

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

Opposer Information

Name	Dish D'Lish, Inc.
Granted to Date of previous extension	10/16/2005
Address	5130 Ballard Ave. NW Seattle, WA 98107 UNITED STATES

Attorney information	Ruth L. Walters Perkins Coie LLP 1201 Third Avenue Suite 4800 Seattle, WA 98101 UNITED STATES petrademarks@perkinscoie.com Phone:206-359-8000
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Applicant Information

Application No	78426450	Publication date	04/19/2005
Opposition Filing Date	10/14/2005	Opposition Period Ends	10/16/2005
Applicant	Cabouli, Pauline 855 Hardscrabble Road Chappaqua, NY 10514		

UNITED STATES

Goods/Services Affected by Opposition

Class 005.

All goods and services in the class are opposed, namely: Food for diabetics in solid and liquid form

Attachments	Cabouli NOO.pdf (5 pages)
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Signature	/Ruth L. Walters/
Name	Ruth L. Walters
Date	10/14/2005

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

DISH D'LISH, INC.,

Opposer,

v.

PAULINE CABOULI,

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Application Serial No.: 78/426,450

Filing Date: May 27, 2004

Publication Date: April 19, 2005

Dish D'Lish, Inc. ("Opposer") believes that it will be damaged by the registration of the mark D-LISH ("Applicant's Mark") in International Class 5, for use in connection with those goods ("Applicant's Goods") listed in Application Serial No. 78426450 (the "Application"), and hereby opposes same. As grounds for its opposition, Opposer alleges as follows:

I. PARTIES

1. Dish D'Lish, Inc. is a Washington corporation, having a primary place of business in Seattle, Washington.
2. On information and belief, Pauline Cabouli ("Applicant") is an individual and citizen of the United States, having a primary residence in New York state.

II. OPPOSER'S MARK

3. Opposer owns U.S. Trademark Registration No. 2913787 and U.S. Trademark Serial No. 76507354, both for the mark DISH D'LISH. Both filings are active and in force. Reg. No. 2913787 was filed March 22, 2002, claiming first use at least as early as October 21, 2002 and Serial No. 76507354 was filed April 17, 2003, also claiming use on certain goods at least as early as October 21, 2002. Through its efforts and expenditures in connection with its advertising, promotional and market services, Opposer has developed valuable goodwill and consumer recognition in its DISH D'LISH mark. Attached hereto as Exhibit A is

a list of United States registrations and applications for the Opposer's DISH D'LISH marks and the associated goods and services.

III. APPLICANT'S MARK

4. On information and belief, the Application was filed on an intent-to-use basis on May 27, 2004 (the "Filing Date") and assigned Serial No. 78/426,450. It was published in the Official Gazette on April 19, 2005.
5. On information and belief, Applicant's Goods are "food for diabetics in solid and liquid form," in Class 5.

IV. CLAIMS

A. PRIOR USE AND REGISTRATION OF OPPOSER'S MARK

6. There is no issue concerning priority. The filing dates and first use dates (where appropriate) for both of Opposer's DISH D'LISH filings predate Applicant's United States application filing date. The relevant dates are also indicated in Exhibit A.
7. On information and belief, Applicant has not used Applicant's Mark in commerce.

B. LIKELIHOOD OF CONFUSION

8. Applicant's Mark is substantially similar in sound, meaning and appearance to Opposer's Mark.
9. Applicant's Goods are or may be sold and marketed to the same types of customers and through the same channels of trade as Opposer's Goods and Services. For example, several of the foods and beverages Applicant provides are appropriate for consumption by diabetic individuals.
10. In view of the fact that the respective marks are substantially similar and given that Applicant's goods are substantially related to Opposer's, Applicant's Mark is likely to cause confusion, or to cause mistake, or to deceive as to the origin, sponsorship and approval of Applicant's Goods by or with Opposer, and is likely

to suggest an affiliation, connection or association of Applicant and Applicant's Goods with Opposer and Opposer's Goods and Services, with consequent injury to Opposer, to the trade and to the public.

11. The registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with Opposer's Mark. Therefore, the registration of Applicant's Mark would damage and injure Opposer.
12. Opposer will also be damaged by the registration of Applicant's Mark because such registration will yield confusion as to source or affiliation and will support statutory rights for Applicant in violation and derogation of Opposer's prior, superior and exclusive rights in Opposer's Mark.
13. Because Opposer's rights in Opposer's Mark are prior and senior to Applicant's rights in Applicant's Mark, and there exists a likelihood of confusion between these marks, registration of Applicant's Mark should be denied.

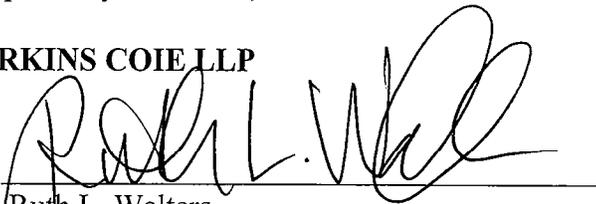
V. REQUEST FOR RELIEF

WHEREFORE, Opposer requests that the mark in Application Serial No. 78/426,450 be denied registration.

DATED: October 14, 2005.

Respectfully submitted,

PERKINS COIE LLP

By: 

Ruth L. Walters

Attorneys for Opposer
1201 Third Avenue, 48th Floor
Seattle, Washington 98101-3099

(206) 359-8000

EXHIBIT A
Opposer's DISH D'LISH U.S. Trademarks

Reg./Ser. No.	International Classes	Goods/Services	Filing Date	Registration Date	First Use Date
2913787	35, 43	Class 35: Specialty retail stores featuring foods and beverages Class 43: Food and beverage preparation for others	3/22/02	12/21/04	10/21/02
76507354	16, 25, 29, 30, 32, 33	Class 16: Paper and printed material, namely, stationery; adhesive tape for stationery purposes; brochures regarding cooking, cardboard containers, labels, menus, merchandise bags, napkins, postcards and stickers; (Based on Intent to Use) Paper and printed matter, namely, book covers, book marks, book plates, books regarding cooking, coloring, cardboard gift boxes, circulars regarding cooking, calendars, books, comic books, cook books, food wrappers, gift wrap, greeting cards, memo pads, menu pads, notebooks, pencils, pens, posters, printed invitations, recipe books, recipe cards, scrapbooks, stationery and theme books Class 25: Clothing, namely, aprons, belts, blouses, coats, dresses, footwear, gloves, hats, headwear, hosiery, jackets, jeans, leggings, leotards, neckwear, overalls, scarves, shirts, shoes, skirts, socks, sun visors, sweaters, sweatpants, swimwear, t-shirts, tank tops, trousers, underwear and vests Class 29: Processed foods, namely, vegetable, meat, fish or chicken croquettes, dairy-based dips, dips excluding salsa and other sauces used as dips, edible oils, flavored oils, flavored butter, fruit preserves, garden salads, jams, jelly, marinated olives; packaged entrees consisting primarily of meat, seafood, poultry, or vegetables; pickled fruit, pickled vegetables, pickles; prepared entrees consisting of meat, seafood, poultry, or vegetables; prepared meals consisting primarily of meat, seafood, poultry, or vegetables; roasted peppers, roasted vegetables; vegetable-based, garlic-based, meat based or cheese sandwich spreads; sandwich spreads, namely, peanut butter, fruit preserves, butter, margarine,	4/17/03	NA	Goods in bold font: 10/21/02 Other goods: intent-to use

Reg./Ser. No.	International Classes	Goods/Services	Filing Date	Registration Date	First Use Date
		<p>butter and margarine substitutes; snack mix consisting primarily of fruits and/or nuts; fruit based snack food; vegetable salads; packaged meals consisting primarily of meat, seafood, poultry or vegetables; (Based on Intent to Use) Processed foods, namely, meat, fish and vegetable based chow mien; frozen meals consisting primarily of meat, seafood, poultry, or vegetables; prepared food package combination consisting of cheese, meat and/or processed fruit, fruit-based snack foods; fruit bars</p> <p>Class 30: Processed foods, namely, chutney; salad dressing; sauces; staple foods, namely, pastries, bakery goods, spices, edible cake decorations, candy and cookies; candy mints, decorations for Christmas trees made of chocolate; edible decorations for cakes; candy coated, caramel, glazed, microwave, popped, processed and processed unpopped popcorn; flavored sugar; flavoring, namely, flavoring syrup, non-essential oil food flavoring, flavoring additives for non-nutritional purposes and malt extracts used as flavoring; fruit glaze; fruit pie; fruit ice; sauces; seasoned coatings for meat, seafood, poultry, pasta and vegetables; spice blends; rice-based, wheat-based or cereal based snack foods; topping syrup; vinegar; wine vinegar; salsa; frozen meals consisting primarily of pasta; prepared meals consisting primarily of pasta; prepared entree consisting primarily of pasta</p> <p>Class 32: Fruit flavored drinks; fruit flavored mixes to be added to water to make fruit flavored soft drinks; non-alcoholic cocktail mixes; fruit juice concentrates, tomato juice, vegetable juice, fruit punch, non-alcoholic punch and soft drinks</p> <p>Class 33: Prepared alcoholic cocktail; alcoholic coffee based beverage</p>			