

# TTAB

FRANKFURT KURNIT KLEIN & SELZ PC

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## EXPRESS MAIL CERTIFICATE

"Express Mail" mailing label number EV370579987US  
Date of Deposit November 22, 2005. I hereby certify that this paper  
or fee is being deposited with the United States Postal Service  
"Express Mail Post Office to Addressee" service under 37 CFR 1.10  
on the date indicated above and is addressed to the Commissioner  
for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451.

Christina Matthews  
Paralegal  
Direct: (212) 826-5573  
e-mail: cmatthews@fkks.com

Christina Matthews  
Print  
Christina Matthews  
Signature

November 22, 2005

### Via Express Mail

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: Trademark Opposition No. 91166969  
Mark: **D-LISH**  
Class: 05  
Our Ref. No. 5394-0100-M248

Dear Sir/Madam:

We enclose herewith:

1. Answer to Notice of Opposition; and
2. Postcard receipt.

This request is being submitted in triplicate as required by 37 CFR § 2.102(d). Please stamp the enclosed postcard to acknowledge receipt.

Respectfully submitted,

Christina Matthews  
Christina Matthews

Enclosures

cc: Edward H. Rosenthal, Esq.  
Melissa Georges, Esq.

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. 91166969  
Serial No. 78/426450

**ANSWER TO NOTICE  
OF OPPOSITION**

Attention: Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria Virginia 22313-1451

Applicant Pauline Cabouli ("Applicant"), by its attorneys Frankfurt Kurnit Klein & Selz, PC, for its answer to the Notice of Opposition ("Opposition") commenced by Opposer Dish D'Lish, Inc. ("Opposer") states as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Opposition.
2. Admits the allegations set forth in Paragraph 2 of the Opposition.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Opposition.
4. Admits the allegations set forth in Paragraph 4 of the Opposition.
5. Admits the allegations set forth in Paragraph 5 of the Opposition.
6. Admits that the filing dates for Opposer's DISH D'LISH Registration No.

2913787 and Application Serial No. 76/507,354 ("Opposer's Marks") predate the filing date of

Applicant's D-LISH mark with Application Serial No. 78/426,450 ("Applicant's Mark"), but

except as so admitted, denies each and every remaining allegation set forth in Paragraph 6 of the Opposition.

7. Denies the allegations set forth in paragraph 7 of the Opposition, except admits that Applicant has not used Applicant's Mark in connection with any goods for sale to the consuming public.

8. Denies the allegations set forth in Paragraph 8 of the Opposition.

9. Denies the allegations set forth in Paragraph 9 of the Opposition.

10. Denies the allegations set forth in Paragraph 10 of the Opposition.

11. Denies the allegations set forth in Paragraph 11 of the Opposition.

12. Denies the allegations set forth in Paragraph 12 of the Opposition.

13. Denies the allegations set forth in Paragraph 13 of the Opposition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

14. Opposer has failed to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

15. Opposer's claims are barred by the doctrines of laches, waiver, estoppel and unclean hands.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

16. There is no likelihood of confusion between Applicant's Mark and Opposer's Marks because the respective marks are distinct.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

17. There is no likelihood of confusion between Applicant's Mark and Opposer's Marks because the goods and services for the respective marks are distinct.

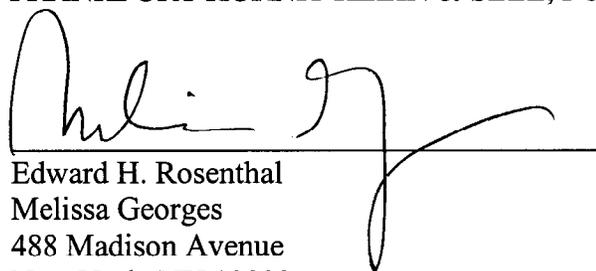
WHEREFORE, Applicant respectfully requests:

1. that the Opposition be dismissed in its entirety;
2. that Applicant be awarded its costs and attorneys' fees; and
3. Applicant's Application Serial No. 78/426450 be permitted to proceed to registration.

Dated: New York, New York  
November 21, 2005

FRANKFURT KURNIT KLEIN & SELZ, PC

By:

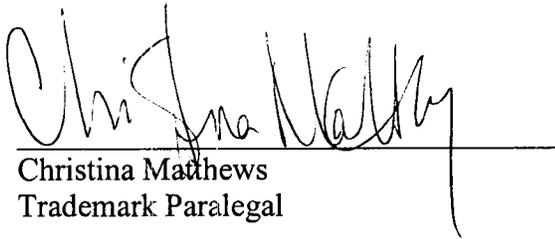
A handwritten signature in black ink, appearing to read "Melissa G.", is written over a horizontal line. The signature is cursive and extends to the right of the line.

Edward H. Rosenthal  
Melissa Georges  
488 Madison Avenue  
New York, NY 10022  
(212) 980-0120  
Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 22<sup>nd</sup> day of November 2005, a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served by first class mail, postage pre-paid, on attorneys for Opposer:

Heidi Sachs, Esq.  
Perkins Coie LLP  
1201 Third Avenue  
48<sup>th</sup> Floor  
Seattle, WA 98101-3099

  
Christina Matthews  
Trademark Paralegal