

ESTTA Tracking number: **ESTTA74773**

Filing date: **04/05/2006**

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	PIZZADZ, LLC
Granted to Date of previous extension	04/05/2006
Address	3595 East Market Street York, PA 17402 UNITED STATES

Attorney information	Andrew M. Paxton CGA Law Firm 135 North George Street York, PA 17401 UNITED STATES apaxton@cgalaw.com Phone:717-848-4900
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### Applicant Information

Application No	78590700	Publication date	12/06/2005
Opposition Filing Date	04/05/2006	Opposition Period Ends	04/05/2006
Applicant	K.D.NY Enterprise, LLC 1385 Broadway New York, NY 10018 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: advertising services, namely, providing advertising space on restaurant and food take-out packaging
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Attachments	Pizzaadz Opposition.pdf ( 3 pages )
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Signature	/andrew m. paxton/
Name	Andrew M. Paxton
Date	04/05/2006



3. Opposer has used the mark in connection with solicitation of advertising clients and in the creation and marketing of its product.
4. Trademark Serial Number 78590700, registration sought to be opposed, is for the mark "Pizzaadz" applied for registration by the Applicant, intended to be used in connection with "*advertising services, namely, with providing advertising space on restaurant and food take-out packaging.*"
5. Opposer has a bona fide intent to use the same mark for related goods, and is about to file an intent-to-use application to register the mark, and believes registration of the mark will be refused in view of applicant's registration.
6. According to Applicant's Intent To Use application for trademark registration, Trademark Serial Number was filed on March 18, 2005.
7. Section 2(d) of the Act, 15 U.S.C. § 1052(d): That defendant's mark so resembles a mark registered in the Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods or services of the defendant, to cause confusion, or to cause mistake, or to deceive.
8. Opposer's mark has priority over Applicant's mark by virtue of its prior and continuous use of that mark before Applicant's Intent to Use registration application was filed.
9. Opposer's mark and Trademark Serial Number 78590700 are nearly identical.
10. Opposer's mark and Applicant's mark are being used in connection with the same or similar goods and services.
11. Opposer's mark and Applicant's mark are used in the same marketplace and compete for the same customers, namely businesses who wish to advertise on food containers.
12. Applicant's mark so resembles Opposer's mark so as to be likely to cause confusion or to cause mistake or deceive.
13. Opposer has expended considerable effort and expense in promoting its mark and the goods and services identified by that mark, establishing goodwill with the Opposer's mark.
14. If Applicant is permitted to register the mark sought to be opposed, and thereby the right to use that mark in commerce in connection with goods and services which are the same or similar to Opposer's goods and services, confusion is likely to result in the concurrent use of said marks, to the detriment of Opposer.

15. Consumers are likely to consider the goods and services of Applicant advertised and promoted under the mark Pizzaadz as emanating from Opposer, and to purchase, associate and otherwise use such goods and services in the mistaken belief that they are those of Opposer, to the detriment of Opposer.

WHEREFORE, Opposer will be damaged by in the event Trademark Serial Number 78590700 is permitted registration and hereby requests that this Honorable Court deny the above-captioned application for registration by the Applicant as it relates to the goods and services so described in that application.

Respectfully submitted,

**CGA LAW FIRM, P.C.,  
Attorneys for Opposer**

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