

ESTTA Tracking number: **ESTTA221765**

Filing date: **07/02/2008**

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	Artisan Confections Company
Granted to Date of previous extension	07/09/2008
Address	100 Crystal A Drive Hershey, PA 17033 UNITED STATES

Correspondence information	Lois B. Duquette Assistant Secretary Artisan Confections Company 100 Crystal A Drive Hershey, PA 17033 UNITED STATES lduquette@hersheys.com Phone:717-534-7911
----------------------------	--

Applicant Information

Application No	77291748	Publication date	03/11/2008
Opposition Filing Date	07/02/2008	Opposition Period Ends	07/09/2008
Applicant	Saber, Andrew J 9461 Charleville Blvd. #132 Beverly Hills, CA 90212 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 2007/07/25 First Use In Commerce: 2007/09/27 All goods and services in the class are opposed, namely: Chocolate
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TAO OF CACAO		
Goods/Services	ON-LINE NEWSLETTER IN THE FIELD OF CHOCOLATE		

Attachments	LAWDOCS-#66522-v2-TAO_OF_CACAO_OPPOSITION_PDF.pdf (2 pages) (19324 bytes) OPPOSITION-CACAO OF THE TAO.pdf (1 page)(9591 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

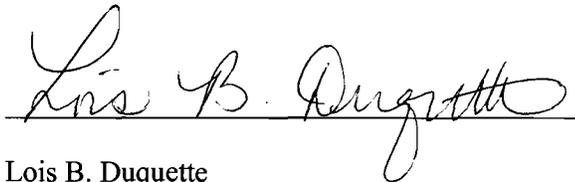
Signature	/Lois B. Duquette/
Name	Lois B. Duquette
Date	07/02/2008

2. Artisan or its predecessor-in-interest Dagoba Organic Chocolate, LLC have been using the trademark TAO OF CACAO in connection with an online newsletter in the field of chocolate since at least as early as October 31, 2005.
3. Applicant has alleged that he has been using CACAO OF THE TAO in commerce since at least as early as September 27, 2007, and anywhere since July 25, 2007. Applicant's date of first use is more than one and one-half years after Opposer and its predecessor-in-interest began using the mark TAO OF CACAO.
4. Applicant's CACAO OF THE TAO mark is virtually identical or highly similar to Opposer's mark TAO OF CACAO.
5. Applicant's goods, as described in its application opposed herein, are related to Opposer's goods and are or would be offered through the same or similar channels of trade to the same or similar customers or users as those goods sold by Opposer.
6. Opposer believes and therefore alleges that use and registration of the mark covered by Application Serial No. 77291748 will damage Opposer for the following reasons, among others:
 - a. That customers and purchasers of the respective goods and services would be confused, mistaken or deceived as to the source and origin of Applicant's goods offered under the CACAO OF THE TAO mark;
 - b. That customers and purchasers of the respective goods and services will assume, contrary to fact, that Applicant's goods come from, are associated with, sponsored by, approved by, or otherwise related to or affiliated with Opposer;
7. Applicant's applied-for mark CACAO OF THE TAO so resembles Opposer's previously used mark TAO OF CACAO as to be likely, when applied to the goods set forth in Applicant's application as to cause confusion, mistake or deception within the meaning of 15 U.S.C. § 1052(d).

8. Applicant's applied-for mark CACAO OF THE TAO so resembles Opposer's previously used mark TAO OF CACAO as to be likely, when applied to the goods set forth in Applicant's application, to falsely suggest a connection with Opposer within the meaning of 15 U.S.C. § 1052(a).

WHEREFORE, Opposer respectfully prays that this Opposition be sustained and that registration to Applicant be refused.

Artisan Confections Company

A handwritten signature in cursive script, reading "Lois B. Duquette", is written over a horizontal line.

Lois B. Duquette
Assistant Secretary
Artisan Confections Company
100 Crystal A Drive
Hershey, PA 17033
Telephone: (717) 534-7911