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October 7, 2008

Hon. Commissioner for Trademarks
Attention: Box TTAB – Fee
P.O. Box 1451
Alexandria, Virginia 22313-1451

Re: Trademark Opposition
Smucker Foods of Canada Co. v. Marquez Brothers International, Inc.
(Ser. No. 77/161,553 – GOLDEN TEMPLE)
International Class 29

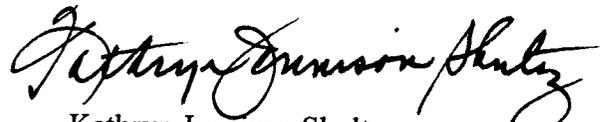
TRADEMARK PROCESS
RECEIVED
2008 OCT -7 A 11 23
US PATENT &
TRADEMARK OFFICE

Dear Madam:

We are transmitting herewith the Notice of Opposition in connection with the subject noted above, together with check in the amount of \$300.00 to cover the official filing fee. You are authorized to deduct any additional fees from Deposit Account No. 503210.

Correspondence in this matter should be directed to the undersigned attorney for the Opposer.

Respectfully submitted,


Kathryn Jennison Shultz

KJS:no
Enclosures



10-07-2008

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

In the matter of trademark application Serial No. 77/161,553
 Filed April 20, 2007
 For the mark GOLDEN TEMPLE
Published in the Official Gazette on June 10, 2008

SMUCKER FOODS OF CANADA CO.,	:	
	:	
Opposer,	:	Opposition No.
	:	
v.	:	
	:	
MARQUEZ BROTHERS INTERNATIONAL, INC.	:	
	:	
Applicant.	:	

NOTICE OF OPPOSITION

Opposer, Smucker Foods of Canada Co., a Canadian corporation with a business address of 80 Whitehall Drive, Markham, Ontario, Canada L3R 0P3, believes that it would be damaged by the issuance of a registration for the mark GOLDEN TEMPLE, as applied for in Application Serial No. 77/161,553, and therefore opposes the same. As grounds for the opposition, Opposer, by its attorneys Jennison & Shultz, P.C., alleges as follows:

1. Opposer is now, and has been for many years, engaged in the sale and distribution of food products such as rice, flour and frozen dough in the United States.
2. Opposer is the owner of U.S. Registration No. 1,297,895, registered September 25, 1984, for the mark GOLDEN TEMPLE for "flour." This registration is valid, subsisting, incontestable, and in full force and effect. As

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such, the registration serves as evidence of Opposer's exclusive right to use the mark.

3. Opposer is the owner of U.S. Registration No. 2,026,781, registered December 31, 1996, for the mark GOLDEN TEMPLE for "rice." This registration is valid, subsisting, incontestable, and in full force and effect. As such, the registration serves as evidence of Opposer's exclusive right to use the mark.
4. Opposer is the owner of U.S. Registration No. 3,007,903, registered October 18, 2005, for the mark GOLDEN TEMPLE for "rice, flour and frozen dough." This registration is valid, subsisting and in full force and effect. As such, the registration serves as evidence of Opposer's exclusive right to use the mark.
5. On April 20, 2007, Applicant, Marquez Brothers International, Inc., filed the application at issue to register the mark GOLDEN TEMPLE for "cheese, cream, cream cheese, and other dairy products, namely, butter, milk, dairy products excluding ice cream, ice milk, and frozen yogurt" in International Class 29, on the basis of intent to use.
6. On information and belief, Applicant made no use of the GOLDEN TEMPLE mark prior to the April 20, 2007, filing date of the subject application.
7. Prior to the filing of the application herein opposed to register the mark GOLDEN TEMPLE and prior to any date claimed by the Applicant with respect to its alleged use of the mark GOLDEN TEMPLE, Opposer has used the designation GOLDEN TEMPLE as a trademark in connection with its food products.

8. The mark that Applicant seeks to register, GOLDEN TEMPLE, is highly similar in sound, meaning and appearance to Opposer's GOLDEN TEMPLE trademark, and will be used on goods that are closely related to the goods on which Opposer uses its registered marks. Based on the similarity of the marks and the named goods, the public is likely to associate the goods offered by Applicant under the mark GOLDEN TEMPLE with Opposer or Opposer's goods, or to believe that Applicant's goods are sponsored, endorsed or licensed by Opposer, or that there is some relationship between Applicant and Opposer.
9. The goods of Applicant, namely cheese, cream, cream cheese, and other dairy products, namely, butter, milk, dairy products excluding ice cream, ice milk and frozen yogurt, and the goods of the Opposer, namely rice, flour and frozen dough, are closely related.
10. The goods of Applicant, namely cheese, cream, cream cheese, and other dairy products, namely, butter, milk, dairy products excluding ice cream, ice milk and frozen yogurt, and the goods of the Opposer, namely rice, flour and frozen dough, may be used together for baking, cooking or the preparation of meals.
11. The goods of Applicant and the goods of the Opposer may be promoted and sold to the same customers through the same channels of trade.
12. Opposer is likely to be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered, and will give

color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

13. For the reasons set forth above, any use of the mark GOLDEN TEMPLE by Applicant is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the goods sold under the GOLDEN TEMPLE mark emanate from or are otherwise sponsored by or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

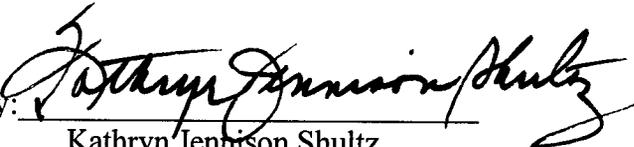
WHEREFORE, Opposer respectfully prays that the registration sought by Applicant be refused, and that this Notice of Opposition be sustained.

Respectfully submitted,

SMUCKER FOODS OF CANADA CO.

Date: October 7, 2008

By:



Kathryn Jennison Shultz

John N. Jennison

Carl E. Jennison

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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that true and complete copy of the foregoing NOTICE OF OPPOSITION was served upon Applicant, by forwarding same via First Class Mail, postage prepaid, to Emma Pena Madrid, Marquez Brothers International, Inc., 5801 Rue Ferrari, San Jose, California 95138-1857, this 7th day of October, 2008.

A handwritten signature in black ink, reading "Kathryn Jennison Shultz". The signature is written in a cursive style with a horizontal line underneath the name.

Kathryn Jennison Shultz