

ESTTA Tracking number: **ESTTA280591**

Filing date: **04/28/2009**

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	Good Times USA LLC		
Entity	Corporation	Citizenship	Florida
Address	5112 LeTourneau Circle Tampa, FL 33610 UNITED STATES		

Attorney information	Cheryl Meide, Esquire Meide Law Firm, P.A. 7545 Centurion Parkway Suite 201 Jacksonville, FL 32256 UNITED STATES cmeide@meidelaw.com Phone:904-564-1818		
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**Applicant Information**

Application No	77479316	Publication date	03/31/2009
Opposition Filing Date	04/28/2009	Opposition Period Ends	04/30/2009
Applicant	Shvartsburd, Mark 364 Lighthouse Avenue Staten Island, NY 10306 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 034. All goods and services in the class are opposed, namely: Cigars
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Opposer as Basis for Opposition**

U.S. Application No.	77481956	Application Date	05/23/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DOUBLE MAESTRO		

Design Mark	<b>DOUBLE MAESTRO</b>
Description of Mark	NONE
Goods/Services	Class 034. First use: First Use: 2007/07/09 First Use In Commerce: 2007/07/09 Cigars

Attachments	77481956#TMSN.jpeg ( 1 page )( bytes ) GTU.003 Notice of Opposition.pdf ( 6 pages )(34112 bytes )
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### **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	/Cheryl Meide/
Name	Cheryl Meide, Esquire
Date	04/28/2009

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

GOOD TIMES USA LLC  
a Florida Limited Liability Corporation,  
Opposer

v.

MARK SHVARTSBURD,  
An individual,  
Applicant

In the matter of  
Application Serial No. 77/479316  
For the mark: MAESTRO

Published in the Official Gazette  
On March 31, 2009

NOTICE OF OPPOSITION

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**NOTICE OF OPPOSITION**

Good Times USA LLC (“Opposer”), a Florida Limited Liability Corporation with an address at 5112 LeTourneau Circle, Tampa, Florida 33610, believes that it will be damaged by registration of the mark MAESTRO, which mark is the subject of Application Serial No. 77/479316, filed by Mark Shvartsburd of Staten Island, New York, and which mark was published for opposition in the *Official Gazette* on March 31, 2009.

The grounds for opposition are as follows:

1. Applicant seeks to register the mark MAESTRO as a trademark for “cigars” (in International Class 034) (“MAESTRO Mark”).
2. The opposed application was filed on May 20, 2008, and is an intent-to-use application based upon an alleged *bona fide* intention to use the mark in commerce (“Applicant’s Application”).
3. At least as early as July 9, 2007, Opposer’s predecessor-in-interest adopted the mark DOUBLE MAESTRO, and Opposer and its predecessor have since used said mark in

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- interstate commerce, continuously and extensively, in connection with cigars (“DOUBLE MAESTRO Mark”).
4. Priority is not an issue. Long prior to Applicant’s filing of its application or its first use of the MAESTRO Mark, Opposer established significant goodwill in connection with its continuous use, and its predecessor-in-interest’ use, of the DOUBLE MAESTRO Mark in connection with cigars.
  5. Opposer and its predecessor’s use of the mark DOUBLE MAESTRO has been valid and continuous since said date of first use. Opposer fully intends to continue use of the mark DOUBLE MAESTRO in connection with cigars. Opposer has not abandoned the DOUBLE MAESTRO Mark.
  6. Opposer has spent substantial sums for advertisement and promotion throughout the United States with respect to its DOUBLE MAESTRO Mark.
  7. As a result of the expenditure of considerable sums for promotional activities and advertising and by virtue of the high quality of its goods, Opposer has garnered a valuable reputation for its DOUBLE MAESTRO Mark.
  8. As a result of the above uses, Opposer has developed substantial common law rights in the DOUBLE MAESTRO Mark.
  9. The MAESTRO Mark is similar in appearance, connotation, sound and commercial impression to the DOUBLE MAESTRO Mark. The applied-for mark sought to be registered by Applicant, MAESTRO, is incorporated in full by Opposer’s DOUBLE MAESTRO Mark.

10. The goods identified in Applicant's Application, namely cigars ("Applicant's Goods"), are extremely similar, if not identical, to Opposer's goods that Opposer has used and is using in connection with the DOUBLE MAESTRO Mark, namely cigars ("Opposer's Goods"). Upon information and belief, Applicant's Goods will be offered to the same general class of customers who purchase Opposer's Goods.
11. Upon information and belief, Opposer avers that Applicant's Goods are advertised and provided in similar channels of trade as Opposer's Goods.
12. Applicant's use of the mark MAESTRO in connection with the goods described in Applicant's Application interferes with Opposer's use of its DOUBLE MAESTRO Mark in connection with cigars and would be likely to cause confusion, mistake, or deception of the relevant trade or public. Customers and potential customers are likely to believe that Applicant's Goods offered under the MAESTRO mark emanate from, are somehow affiliated with, or are licensed or approved by Opposer, when that is not the case in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). Such confusion would be a source of damages to Opposer.
13. Any defect, inadequacy, or deficiency found in Applicant's Goods marketed under the MAESTRO Mark would reflect negatively upon and seriously injure the reputation and goodwill associated with Opposer's Goods provided in connection with its DOUBLE MAESTRO Mark.
14. On May 23, 2008 Opposer filed a trademark application with the United States Patent and Trademark Office for registration on the Principal Register for the mark DOUBLE MAESTRO in connection with "cigars" in International Class 34. The application was

assigned serial number 77/481956. On September 15, 2008, the examiner assigned to that application refused the application's registration and cited Applicant's Application as a basis for the refusal and asserted that a likelihood of confusion under Section 2(d) of the Trademark Act exists between Opposer's applied-for mark DOUBLE MAESTRO and the MAESTRO Mark depicted in Applicant's Application. Applicant's Application is thereby causing damage to Opposer.

15. If Applicant is granted a registration based on Application Serial No. 77/479316, Applicant would thereby obtain at least a prima facie exclusive right to use the MAESTRO mark. Any such registration would be a source of damage and injury to Opposer and its customers.

WHEREFORE, Opposer believes that it will be damaged by registration of said mark and prays that this Opposition be sustained, that Application Serial No. 77/479316 be rejected, and that the mark applied for therein be refused registration.

The fee of \$300.00 pursuant to 37 C.F.R. § 2.6(a)(17) is enclosed herewith.

Opposer has appointed Cheryl Meide, who is an attorney admitted to practice before the Supreme Court of the State of Florida and is associated with the firm Meide Law Firm, P.A., 7545 Centurion Parkway, Suite 201, Jacksonville, Florida 32256, as its duly authorized agent and attorney in the matter of this opposition, with full power of substitution and revocation, to

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transact all business with the United States Patent and Trademark Office and elsewhere in the United States courts in connection with this opposition, to sign all papers which may be hereinafter filed in connection with this opposition, and to receive all communications relating to this opposition.

Respectfully submitted,



April 28, 2009

Cheryl Meide  
Attorney for Registrant  
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Meide Law Firm, P.A.  
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Date

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Opposition is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Lee Anne LeBlanc, Esq., Law Office of Lee Anne LeBlanc, P.A., 1835 E Hallandale Beach Blvd #344, Hallandale, FL 33009-4619 on the date set forth below.

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Notice of Opposition  
Application Serial No. 77/479316  
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April 28, 2009

Date

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Attorney for Opposer  
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Meide Law Firm, P.A.  
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**CERTIFICATE OF ESTTA MAILING**

Date of Deposit April 28, 2009

Signature 

Name: Cheryl Meide, Esquire

I hereby certify that this correspondence to the Trademark Trial and Appeal board is being submitted via the Electronic System for Trademark Trials and Appeals ("ESTTA") on the dated noted above.