

ESTTA Tracking number: **ESTTA344405**

Filing date: **04/27/2010**

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	Manhattan Confectioner's Inc. dba Jo's Candies		
Entity	Corporation	Citizenship	California
Address	2530 W. 237th Street Torrance, CA 90505 UNITED STATES		

Correspondence information	Bruce B. Brunda Stetina Brunda Garred & Brucker 75 Enterprise, Suite 250 Aliso Viejo, CA 92656 UNITED STATES opposition@stetinalaw.com Phone:(949) 855-1246		
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### Applicant Information

Application No	76700304	Publication date	04/20/2010
Opposition Filing Date	04/27/2010	Opposition Period Ends	05/20/2010
Applicant	Morrell Gourmet Chocolates, LLC 1721 Highway 71 North Alma, AR 72921 UNITED STATES		

### Goods/Services Affected by Opposition

Class 030. First Use: 2009/04/09 First Use In Commerce: 2009/04/09  
All goods and services in the class are opposed, namely: gourmet chocolates

### 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. Registration No.	3462055	Application Date	11/29/2007
Registration Date	07/08/2008	Foreign Priority Date	NONE
Word Mark	COCO JO		

Design Mark	<b>COCO JO</b>
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1998/06/00 First Use In Commerce: 1998/06/00 CANDY

Attachments	77340541#TMSN.jpeg ( 1 page )( bytes ) NoticeOfOpposition.pdf ( 6 pages )(94434 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	/Bruce B. Brunda/
Name	Bruce B. Brunda
Date	04/27/2010

Case: JOSCA-011M

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Trademark Application Serial No. 76/700,304**

Manhattan Confectioner's Inc. dba Jo's	)	Opposition No.:
Candies,	)	
	)	
Opposer	)	
	)	
vs.	)	
	)	
Morrell Gourmet Chocolates, LLC,	)	
	)	
Applicant	)	

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**NOTICE OF OPPOSITION**

Box TTAB – Fee  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir/Madam:

In the matter of the application of Morrell Gourmet Chocolates, LLC of Alma, Arkansas (hereinafter "Applicant") for registration of the mark COCO-MO'S, Application Serial No. 76/700,304 published in the Official Gazette on April 20, 2010 at TM 993, Manhattan Confectioner's Inc. dba Jo's Candies, a California Corporation, with offices at 2530 W. 237<sup>th</sup> Street, Torrance, California 90505 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark shown in Serial No. 76/700,304, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is and has been for many years engaged in the extensive development, advertising, and marketing of a variety of candy and related products. In connection therewith, Opposer has used the mark COCO JO, (hereinafter referred to as the COCO JO Mark) for the aforementioned goods since long prior to Applicant's filing date of the application of Serial No. 76/700,304 for the mark COCO-MO'S.

2. Since at least as early as 1998, Opposer has made use of its COCO JO Mark throughout the United States in interstate commerce. Since adoption of its COCO JO Mark, Opposer has continuously used that mark throughout the United States in interstate commerce.

3. Opposer has expended considerable sums in exerting every effort to maintain the highest standard of quality for its products, and has created valuable goodwill among the purchasing public under its COCO JO Mark.

4. As a result of the continuous and extensive use of the COCO JO Mark by Opposer, this mark has become and continues to function as a valuable business and marketing asset of Opposer, and serve to indicate to the trade and consuming public the products originating from Opposer and its authorized representative.

5. Opposer has obtained United States Trademark Registration No. 3,462,055, registered July 8, 2008, for the mark COCO JO for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 1**.

6. Notwithstanding Opposer's rights in and to said COCO JO Mark, on November 9, 2009 Applicant, on information and belief, filed an application for registration of the mark COCO-MO'S in International Class 30, for gourmet chocolates.

Said application was published for opposition in the Official Gazette on April 20, 2010 at TM 993.

7. Applicant's COCO-MO'S mark is confusingly similar to Opposer's COCO JO and its registration and use by Applicant on the goods claimed in the subject application is likely to cause confusion, deception and mistake.

8. Applicant's use of its COCO-MO'S mark interferes with Opposer's use of its COCO JO Mark and use of, or registration of Applicant's mark by Applicant will seriously damage Opposer.

WHEREFORE, Opposer believes that it will be damaged by said registration and prays that registration of Application Serial No. 76/700,304 to Applicant be denied.

Opposer authorizes the filing fee for this Opposition in the amount of \$300 (one international class) to be charged to Opposer's Deposit Account.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: 4/27/10

By: 

Bruce B. Brunda, Reg. No. 28,497  
75 Enterprise, Suite 250  
Aliso Viejo, CA 92656  
(949) 855-1246

Counsel for Opposer  
Manhattan Confectioner's Inc. dba Jo's Candies

# **EXHIBIT 1**

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,462,055

Registered July 8, 2008

TRADEMARK  
PRINCIPAL REGISTER

COCO JO

MANHATTAN CONFECTIONER'S INC. (CALI-  
FORNIA CORPORATION), DBA JO'S CAN-  
DIES  
2530 W. 237TH STREET  
TORRANCE, CA 90505

FOR: CANDY, IN CLASS 30 (U.S. CL. 46).

FIRST USE 6-0-1998; IN COMMERCE 6-0-1998.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,943,861, 3,119,134,  
AND 3,329,035.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "COCO", APART FROM THE MARK  
AS SHOWN.

SER. NO. 77-340,541, FILED 11-29-2007.

MATTHEW EINSTEIN, EXAMINING ATTORNEY

**PROOF OF SERVICE**

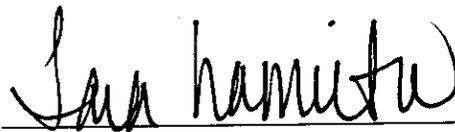
State of California    )  
                                  ) ss.  
County of Orange     )

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **April 27, 2010**, the attached **NOTICE OF OPPOSITION** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

MORRELL GOURMET CHOCOLATES, LLC  
1721 HIGHWAY 71 NORTH  
ALMA, AR 72921

BOYD D. COX  
75 N. EAST AVE  
STE 506  
FAYETTEVILLE, AR 72701

Executed on **April 27, 2010** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.



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Tara Hamilton