

ESTTA Tracking number: **ESTTA355767**

Filing date: **06/30/2010**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Denise Snacks, Inc.
Granted to Date of previous extension	06/30/2010
Address	8000 W. 26th Avenue Hialeah, FL 33016 UNITED STATES

Name	Denise Distribution Corp.
Granted to Date of previous extension	06/30/2010
Address	Post Office Box 860222 Ridgewood, NY 11386 UNITED STATES

Attorney information	Bruce W. Baber King & Spalding LLP 1180 Peachtree Street Atlanta, GA 30309 UNITED STATES bbaber@kslaw.com, ebrown@kslaw.com Phone:404-572-4826
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Applicant Information

Application No	77838572	Publication date	03/02/2010
Opposition Filing Date	06/30/2010	Opposition Period Ends	06/30/2010
Applicant	The International Group, Inc. 13 Hamden Park Drive Hamden, CT 06518 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 2003/06/01 First Use In Commerce: 2003/06/01 All goods and services in the class are opposed, namely: Fried Pork Skins, Fried Pork Rinds, Pork Crackling, Fried Chicken Skins
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Other	The mark is being used by Applicant to misrepresent the source of the goods on which it is being used.
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Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DENISE		
Goods/Services	candy, nuts, fried pork skin products, plantain chips, cakes, toys and other products		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DENISE SNACKS		
Goods/Services	candy, nuts, fried pork skin products, plantain chips, cakes, toys and other products		

Attachments	DENISE SNACKS Opposition.pdf (7 pages)(264033 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.

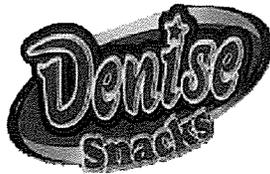
Signature	/Bruce W. Baber/
Name	Bruce W. Baber
Date	06/30/2010

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

DENISE SNACKS, INC. and)	
DENISE DISTRIBUTION)	
CORPORATION,)	OPPOSITION NUMBER
)	
Opposers,)	
)	
v.)	_____
)	
THE INTERNATIONAL GROUP, INC.,)	
)	
Applicant.)	

OPPOSITION

DENISE SNACKS, INC., a Florida corporation having its principal place of business at 8000 West 26th Avenue, Hialeah, Florida 33016 (“DENISE SNACKS”), and DENISE DISTRIBUTION CORPORATION, a New York corporation having a mailing address of Post Office Box 860222, Ridgewood, New York 11386 (“DENISE DISTRIBUTION”), collectively referred to hereinafter as “Opposers,” believe they would be damaged by registration of the mark DENISE SNACKS and Design shown below:



(“Applicant’s Alleged Mark”) for “fried pork skins, fried pork rinds, pork crackling [and] fried chicken skins” in International Class 29 (“Applicant’s Goods”), which mark is the subject of application Serial No. 77-838,572 (the “Application”), filed on September 30, 2009 by The International Group, Inc. (“Applicant”), and published for opposition in the

Official Gazette of March 2, 2010, and, by and through their undersigned attorneys and in accordance with Rules 2.101 through 2.104 of the Trademark Rules of Practice, hereby oppose the same.

The grounds for this Opposition are as follows:

1. By the Application, Applicant seeks to register Applicant's Alleged Mark as a mark for Applicant's Goods.

2. Opposer DENISE SNACKS and opposer DENISE DISTRIBUTION are related companies that are and at all times relevant hereto have been under common control and/or ownership with respect to the use of the marks DENISE and DENISE SNACKS and variations of such marks that include design elements, including the mark that is the subject of the Application (the "DENISE SNACKS Marks"), for candy, nuts, fried pork skin products, plantain chips, cakes, toys and other products.

3. Opposers and their related companies and predecessors in interest have adopted and used in interstate commerce and at all times pertinent hereto, including since long prior to the filing date of the Application, have owned all right, title, and interest in and to the DENISE SNACKS Marks. The DENISE SNACKS Marks have been used by Opposers, their related companies, and their predecessors in interest since at least as early as 1993 for and in connection with candy, nuts, fried pork skin products, plantain chips, cakes and toys ("Opposers' Goods"). Opposers, their related companies, and their predecessors in interest have used the DENISE SNACKS Marks for and in connection with Opposers' Goods in interstate commerce in and throughout

numerous states of the United States continuously and extensively since at least as early as 1993.

4. As a result of the long, widespread, and extensive use by Opposers, their related companies, and their predecessors in interest of the DENISE SNACKS Marks, the DENISE SNACKS Marks are of great value to Opposers in connection with the offering of Opposers' Goods. The DENISE SNACKS Marks are distinctive of Opposers' Goods, identify and distinguish Opposers' Goods from the goods, services, and businesses of others, symbolize the goodwill of Opposers' businesses, and are well-known to the relevant trade and consumers.

5. During the period 2003 through 2009, Applicant and/or entities related to Applicant manufactured for and on behalf of Opposers fried pork skin products bearing the DENISE and DENISE SNACKS mark that Opposers and their predecessors in interest had used for many years prior to commencing a business relationship with Applicant and/or such related entities. During such years, Applicant and/or its related entities served as a contract manufacturer of such products for Opposers, and neither of Opposers nor any entity related to Opposers ever granted, assigned or transferred to Applicant or to any entity related to Applicant any ownership right in or to any of the DENISE SNACKS Marks.

6. Upon information and belief, Applicant is unable to establish, with respect to Opposers' use of Opposers' DENISE SNACKS Marks, priority of use or priority of rights in the United States in connection with Applicant's Alleged Mark.

7. Upon information and belief, Applicant's Goods and Opposers' Goods are of the same or similar types; are offered or may be offered through the same, substantially the same, and/or related channels of trade, to the same, substantially the same, and/or related classes of purchasers; and are or may be advertised, marketed and promoted through the same media channels.

8. Upon information and belief, Applicant's Alleged Mark, when used in connection with Applicant's Goods, so resembles Opposers' DENISE SNACKS Marks as to be likely to cause confusion, or to cause mistake, or to deceive with respect to the source or origin of Applicant's Goods, with respect to Opposers' sponsorship thereof or connection or affiliation therewith, and/or in other ways.

9. Upon information and belief, Applicant's Alleged Mark so closely resembles Opposers' DENISE SNACKS Marks that current purchasers of the goods offered under Applicant's Alleged Mark have believed and potential purchasers of the goods offered under Applicant's Alleged Mark would be likely to believe that Opposers are the source of such goods, or that Opposers have authorized, sponsored, approved of, or in some other manner associated themselves with Applicant's Goods, thereby creating a likelihood of confusion, deception or mistake, all to the damage of Opposers.

10. Opposers would be damaged by registration of Applicant's Alleged Mark because such registration would constitute prima facie evidence of Applicant's exclusive right to use Applicant's Alleged Mark for and in connection with Applicant's Goods, which would be inconsistent with and detrimental to Opposers' prior and established rights in Opposers' DENISE SNACKS Marks.

11. Applicant's Alleged Mark falsely suggests a connection or affiliation with or between Opposers and Applicant, and is being used by Applicant to misrepresent the source of the goods on which it is being used, and Applicant is therefore not entitled to registration of Applicant's Alleged Mark.

12. Upon information and belief, no use of Applicant's Alleged Mark for fried pork rinds, pork crackling or fried chicken skins had been made by Applicant or by any entity related to Applicant prior to the filing of the Application, and such facts were known to Applicant's attorney at the time the Application was filed as a use-based application under section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a). Applicant's Application was therefore false and made with intent to deceive, was fraudulent, and was void ab initio.

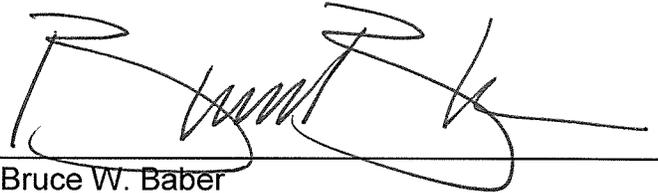
The Patent and Trademark Office is authorized to deduct the filing fees of six hundred dollars (\$600.00), and any other fees necessary in connection with the filing of this Opposition, from the deposit account of King & Spalding LLP, Opposers' undersigned counsel, account number 11-0980.

WHEREFORE, Opposers Denise Snacks, Inc. and Denise Distribution Corporation respectfully pray that the application of The International Group, Inc., Serial Number 77-838,572, filed September 30, 2009 for registration of the mark DENISE SNACKS and Design for "fried pork skins, fried pork rinds, pork crackling [and] fried

chicken skins” in International Class 29 be refused, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposers.

Respectfully submitted, this 30th day of June, 2010.

KING & SPALDING LLP

A handwritten signature in black ink, appearing to read "Bruce W. Baber", written over a horizontal line.

Bruce W. Baber
Emily B. Brown

1180 Peachtree Street, N.E.
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(404) 572-4600

Attorneys for Opposers
DENISE SNACKS, INC. and
DENISE DISTRIBUTION
CORPORATION

CERTIFICATE OF SERVICE

This is to certify, in accordance with Rule 2.101(b) of the Trademark Rules of Practice, that I have this day served the foregoing Opposition on Applicant, by causing a true and correct copy thereof to be deposited in the United States Mail, postage prepaid, addressed to the attorney of record for Applicant as follows:

Mr. Harry Schochat
Law Office of Harry Schochat
8 Lunar Drive
Woodbridge, CT 06525

This 30th day of June, 2010.

A handwritten signature in black ink, appearing to read "Emily B. Brown", written over a horizontal line.

Emily B. Brown