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

Proceeding	91195509
Party	Plaintiff Denise Snacks, Inc., Denise Distribution Corp.
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Attachments	Amended Opposition (DENISE SNACKS).pdf ( 6 pages )(38354 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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DENISE SNACKS, INC. and	)	
DENISE DISTRIBUTION	)	
CORPORATION,	)	OPPOSITION
	)	
Opposers,	)	NO. 91195509
	)	
v.	)	
	)	
THE INTERNATIONAL GROUP, INC.,	)	
	)	
Applicant.	)	

AMENDED OPPOSITION

In accordance with the Order entered in this matter on November 9, 2010, Opposers DENISE SNACKS, INC. and DENISE DISTRIBUTION CORPORATION file this Amended Opposition.

DENISE SNACKS, INC., a Florida corporation having its principal place of business at 8000 West 26<sup>th</sup> 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.

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 9th day of December, 2010.

KING & SPALDING LLP

/Bruce W. Baber/

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

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing Amended 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 9th day of December, 2010.

/Bruce W. Baber/

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Bruce W. Baber