

ESTTA Tracking number: **ESTTA361616**

Filing date: **08/04/2010**

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	Kosher First LLC d/b/a Tuv Taam
Granted to Date of previous extension	08/04/2010
Address	502 Flushing Avenue Brooklyn, NY 11205 UNITED STATES

Attorney information	Marsha G. Ajhar Hartman & Craven LLP 488 Madison Avenue New York, NY 10022 UNITED STATES majhar@hartmancraven.com Phone:212-836-4929
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Applicant Information

Application No	77725998	Publication date	04/06/2010
Opposition Filing Date	08/04/2010	Opposition Period Ends	08/04/2010
Applicant	tuv taam inc 719 eastern pk st3 bklyn, NY 11213 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. All goods and services in the class are opposed, namely: Foods, namely, prepared meals and packaged meals consisting primarily of meat, fish, poultry or vegetables; soups; ingredients of foods, namely, fruit concentrates and purees, cheese, meat substitutes, cooked vegetables, and meat
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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.	77897144	Application Date	12/18/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TUV TAAM		

Design Mark	TUV TAAM
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2004/00/00 First Use In Commerce: 2004/00/00 Cream cheese; Fish, namely, white fish, lox, salmon salads and spreads; Salads except macaroni, rice, and pasta salad; Soups; Vegetable salads; Vegetable-based spreads; Pre-prepared vegetable-based entrees Class 030. First use: First Use: 2004/00/00 First Use In Commerce: 2004/00/00 Blintzes; Puddings; Pre-prepared entrees consisting primarily of pasta or rice

Attachments	77897144#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (4 pages)(30077 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	/mga/
Name	Marsha G. Ajhar
Date	08/04/2010

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

In the Matter of Trademark Application Serial No. 77-725,998
Published in the Official Gazette on April 6, 2010

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First Kosher LLC d/b/a Tuv Taam,	:	Opposition No.
	:	
Opposer,	:	
	:	
v.	:	
	:	
Tuv Taam Inc.,	:	
	:	
Applicant.	:	
-----X	:	

NOTICE OF OPPOSITION

First Kosher LLC, doing business as Tuv Taam, a limited liability company organized and existing under the laws of the State of New York, with a place of business at 502 Flushing Avenue, Brooklyn, New York 11205 ("Opposer"), believes it will be damaged by registration of the mark TUV-TAAM as shown in Application Serial No. 77-725,998 by Tuv Taam Inc. ("Applicant") and hereby opposes same.

As grounds for opposition, it is alleged that:

1. Applicant seeks to register "TUV-TAAM" for "foods, namely, prepared meals and packaged meals consisting primarily of meat, fish, poultry or vegetables; soups; ingredients of foods, namely, fruit concentrates and purees, cheese, meat substitutes, cooked vegetables, and meat" in International Class 29.
2. Applicant filed its TUV-TAAM application on April 30, 2009 based on intention to use pursuant to Section 1(b) of the Trademark Act.

3. Opposer has used and is using TUV TAAM both as a company name and trademark for a variety of food products, and, more specifically, primarily pre-prepared kosher appetizers and kosher frozen food products, since at least as early as 2004. Opposer formed its predecessor company, Tuv Taam Corp., almost twenty-five years ago in 1986 and although its corporate name has changed, Opposer continues to do business as "Tuv Taam".

4. Opposer filed a use-based application, Application No. 77-897,144, to register its TUV TAAM mark in the U.S. Patent and Trademark Office on December 18, 2009 for a variety of food items in International Classes 29 and 30, namely, "fish, namely, white fish, lox, salmon salads and spreads; salads except macaroni, rice, and pasta salad; soups; vegetable salads; vegetable-based spreads; pre-prepared vegetable-based entrees; blintzes; puddings; and pre-prepared entrees consisting primarily of pasta or rice" claiming use since at least as early as 2004.

5. Opposer is the senior user with rights in and to TUV TAAM both as a trade name and trademark that well predate the filing of Applicant's TUV-TAAM application. However, because Applicant was the first to file, its TUV-TAAM application, the application that is the subject of this opposition, that application was cited as a §2(d) bar to registration by Opposer of its TUV TAAM mark.

6. Applicant's mark, TUV-TAAM, is identical to Opposer's TUV TAAM mark and name but for the addition of a hyphen which is of no consequence in assessing similarity.

7. The goods identified in the subject application, all food items, are identical to or otherwise closely related to Opposer's food products.

8. Consumers familiar with Opposer's TUV TAAM line of food products are likely to mistakenly believe that Applicant's and its line of TUV-TAAM food products are in some manner affiliated or associated with, sponsored by or otherwise related to Opposer.

9. In view of the foregoing, registration by Applicant of TUV-TAAM, a mark identical to Opposer's trade name and its TUV TAAM mark, for goods closely related to the goods of Opposer, is likely to cause confusion, mistake or deception of the public as to the source of Applicant's goods and falsely suggest a common association, sponsorship or origin of said services between Applicant and Opposer, all to Opposer's irreparable damage and injury.

10. In view of the similarity between Applicant's and Opposer's marks and Opposer's prior rights in and to the mark and name, registration of Applicant's mark is barred under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)) as it so resembles Opposer's mark and name as to be likely to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Opposer believes it will be damaged by the registration of Application No. 77-725,998 and therefore respectfully requests that such registration be refused and this opposition sustained.

Respectfully submitted,

HARTMAN & CRAVEN LLP
Attorneys for Opposer,
First Kosher LLC

Dated: August 4, 2010

By: /s/ Marsha G. Ajhar
Marsha G. Ajhar

CERTIFICATE OF SERVICE

I hereby certify on this 4th day of August, 2010 that a true and complete copy of the foregoing *Notice of Opposition* was served upon Applicant at the following address of record:

Tuv Taam Inc.
719 Eastern Parkway, Suite 3
Brooklyn, New York 11213

/s/ Marsha G. Ajhar
Marsha G. Ajhar