

ESTTA Tracking number: **ESTTA363072**

Filing date: **08/13/2010**

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	Threeline Imports, Inc.
Granted to Date of previous extension	08/14/2010
Address	14A 53rd Street Brooklyn, NY 11232 UNITED STATES
Attorney information	Charles H. Knull Ullman, Shapiro & Ullman, LLP 299 Broadway, Suite 1700 New York, NY 10007 UNITED STATES tms@usulaw.com Phone:212-571-0068

Applicant Information

Application No	79077185	Publication date	06/15/2010
Opposition Filing Date	08/13/2010	Opposition Period Ends	08/14/2010
International Registration No.	0933216	International Registration Date	04/05/2007
Applicant	Obshchestvo s ogranichennoy; otvetstvennost'yu; "Babkiny semechki" 46, Udal'tsova str. RU-119607 Moscow RUSSIAN FEDERATION		

Goods/Services Affected by Opposition

<p>Class 016. All goods and services in the class are opposed, namely: Absorbent pads of paper and cellulose for use in food packaging; paraffined paper; adhesive tapes for stationery or household purposes; adhesive packing tape for industrial or commercial use; adhesive bands for stationery or household purposes; adhesive labels; boxes of cardboard or paper; cardboard; cardboard boxes; cardboard carriers for food and beverages; cardboard packaging; cardboard packaging boxes in collapsible form; cardboard packaging boxes in made-up form; corrugated cardboard boxes; packaging and containers comprised of starch-based materials in the nature of a paper substitute for food, beverages and consumer products; packaging materials made from mineral-based paper substitutes; paper for wrapping and packaging; paper packaging and containers for food and beverages comprised of materials designed to lessen adverse effects on the environment; plastic bags for packaging; plastic bags for packing; packing paper; packing cardboard; packing cardboard containers; paper and cardboard; paperboard; plastic bubble packs for wrapping or packaging; paper labels; printed paper labels; wrapping paper</p>
<p>Class 029.</p>

All goods and services in the class are opposed, namely: Albumen for use in food; blanched nuts; canned cooked meat; canned fish; canned fruits and vegetables; canned or bottled fruits; canned or bottled vegetables; canned pork and beans; canned processed olives; canned tomatoes; canned vegetables; canned, cooked or otherwise processed tomatoes; bagged, canned or bottled cut fruits; bagged, canned or bottled cut vegetables; candied nuts; corn oil; chocolate nut butter; cocoa butter for food purposes; cooked fruits and vegetables; crystallized fruits; crystallized, frosted, frozen, and preserved fruit; dried fruit and vegetables; desiccated coconut; dairy products excluding ice cream, ice milk and frozen yogurt; edible oils and fats, fish and meat preserves; edible oils and fats, preserves and pickles; edible oils and edible fats; eggs; food additives in the nature of fat acids made from meat, fish, fruits, vegetables, eggs, milk and edible oils and fats; fig and date roll consisting of dried fruits, nuts, and spices; fruit-based organic food bars, also containing fruits, dried fruits, fruit juice, grain, vegetables, nuts, seeds, chocolate; nut and seed-based snack bars; fruit pulps; frozen fruits; gherkins; ground almonds; jellies and jams; jams and marmalades; margarine, edible oils and fats; marmalades and jams; milled flax seeds; meat, fish, poultry and game; meat and meat extracts; meat, fruit and vegetable jellies, jams, eggs; milk beverages containing fruits; milk beverages with high milk content; milk products excluding ice cream, ice milk and frozen yogurt; nut butters; nut cheese, namely, cheese-type product made from nuts; nut-based snack foods, namely, nut crisps; organic nut and seed-based snack bars; oil, namely, vegetable oil, salad oil; potato-based snack foods; potato crisps and chips; preserved, dried and cooked fruit and vegetables; preserved, dried, cooked and grilled vegetables; preserved fruits; processed almonds; processed cabbage; processed mushrooms; prepared nuts; processed fruit- and nut-based food bars; processed plantain seeds; processed pumpkin seeds; peanut butter; peanut butter toppings; peanut butter confectionery chips; processed edible seeds; processed potatoes; roasted nuts; raisins; rape oil; sauerkraut; bagged, canned or bottled sliced fruits; bagged, canned or bottled sliced vegetables; seasoned nuts; shelled nuts; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; snack mix consisting of dehydrated fruit and processed nuts; snack mix consisting primarily of dehydrated fruits, processed nuts and also including sesame sticks; snack mix consisting of primarily of processed nuts and salted squash seeds and also including toasted corn; processed edible seeds, namely, sunflower seeds; tinned meat; tinned olives; tinned tomatoes; vegetable chips; yoghurt drinks also containing whey; yoghurts

Class 030.

All goods and services in the class are opposed, namely: Almond cake; almond paste; bagel chips; bread and pastry; barley flour; buckwheat flour; brown sugar; bonbons made of sugar; bread crumbs; candies; chewing gums; cookies and crackers; confectionery, namely, pastilles; couscous; corn-based snack foods; corn chips; corn curls; corn fingers; corn flakes; corn flour; corn fritters; corn meal; corn starch; corn starch flour; corn syrup; chocolate chips; chocolate-covered potato chips; confectionery chips for baking; chocolate for confectionery and bread; cocoa-based ingredient in confectionery products; crystal sugar; crystal sugar pieces; dried corn husks for tamales; extruded corn snacks; edible flour; edible cake decorations; food package combinations consisting primarily of bread, crackers and/or cookies; fondants; flour for food; flour-based chips; flour for making dumplings of glutinous rice; flour-based gnocchi; frozen confectionery; fruit jellies; grain-based chips; halvah; husked barley; muesli; nutmeg; non-medicated lozenges; oat flakes; pita chips; pancakes; pastries; peanut butter confectionery chips; processed semolina; processed corn; puffed corn snacks; potato flour; protein reduced and gluten free flour and bread; peppermint for confectionery; rice flour; rusks; sago; sandwiches; sweetmeats; steamed corn kernels bits; soya flour; snack cakes; sugar free chewing gum; sugar and sugar substitutes; sugar wafers; sugar-coated almonds; sugar-coated coffee beans; sugar-coated hard caramels; tarts; toasted corn kernels; tapioca flour; taco chips; tortilla chips; vegan cookies; vinegar; waffles; wheat flour; white sugar

Class 035.

All goods and services in the class are opposed, namely: Advertising, including promotion relating to the sale of articles and services for third parties by the transmission of advertising material and the dissemination of advertising messages on computer networks; advertising services of a radio and television advertising agency; advertising and advertisement services; advertising and publicity services; advertising agencies; distribution and dissemination of advertising materials, namely, leaflets, prospectuses, printed material, samples; distribution of prospectuses and samples; dissemination of advertising matter; direct mail advertising; distribution of advertising mail and of advertising supplements attached to regular editions; modeling for advertising or sales promotion; on-line advertising on computer communication networks; on-line trading services in which seller posts products to be auctioned and bidding is done via the Internet; publicity and sales promotion services;

publicity and sales promotion relating to goods and services, offered and ordered by telecommunication or the electronic way; production and distribution of radio and television commercials; providing television advertising for others; production of television commercials; publicity agents; purchasing and procurement services, namely, procuring of contracts for others for the purchase of goods and labor contracting services; sales promotion services; television advertising agencies

Grounds for Opposition

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	1. Opposer has imported and sold sunflower seed packages that display a mark identical to Applicant's mark beginning prior to Applicant's application.. 2. By reason of such importation and sale, Opposer has been named defendant in a trademark infringement law suit brought by a company, not the Applicant, that alleges it is the owner of the common law trademark identical to Applicant's mark. Zip International Group, LLC v. Trilini Imports, Inc., CV-09-2437 (JG)(VVP) (E.D.N.Y.). 3. Only one entity can be the owner of the exclusive rights in a trademark.

Attachments	Notice of Opposition to babkiny.txt (2 pages)(2842 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	/CHARLES H KNULL/
Name	Charles H. Knull
Date	08/13/2010

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

- - -X

THREELINE IMPORTS, INC.

:

Opposer,

vs.

OBSHCHESTVO S OGRANICHENNOY;

:

OTVETSTVENNOSTY'YU;

:

"BABKINY SEMECHKI"

:

Applicant.

- - -X

NOTICE OF OPPOSITION

In the Matter of Application Serial No. 79/077185, published in the Official Gazette on June 15, 2010, Threeline Imports, Inc., a corporation organized and existing under the laws of the State of New York, and having a principal place of business at 4 "A" 53rd Street, Brooklyn, New York 11232, believes that it will be damaged by registration of the trademark BABKINY and design shown in such application, and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer has imported and sold sunflower seed packages that display a mark identical to Applicant's mark beginning prior to Applicant's application..
2. By reason of such importation and sale, Opposer has been named defendant in a trademark infringement law suit brought by a company, not the Applicant, that alleges it is the owner of the common law trademark identical to Applicant's mark. Zip International Group, LLC v. Trilini Imports, Inc., CV-09-2437 (JG)(VVP) (E.D.N.Y.).
3. Only one entity can be the owner of the exclusive rights in a trademark.
4. Upon information and belief, Applicant's use of the applied for mark has never been on any product in the entire world other than sunflower seeds and therefore the goods and services in four International Classes that Applicant claims, other than sunflower seeds, are claimed without a bona fide intent to use and therefore Applicant's statement that it has a bona fide intent to use the mark on all goods and services has been made fraudulently.

WHEREFORE, Opposer prays that its opposition be sustained and the opposed application be denied registration.

mitted,

Respectfully sub

Charles H. Knull
Linda M. Dougher

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ULLMAN, SHAPIRO

& ULLMAN LLP

299 Broadway, Su

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing Notice of Opposition i
s
being deposited with the U.S Postal Service as first class mail this 12
August 2010, postage pre-paid, in an envelope addressed to
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Attorneys for Op

Dated: August 12, 2010

New York, New York
