

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

Atty. Dkt. 4221.015

Applicant: Sprinkles, Inc.

Mark: Serial No. 85148734 for SPRINKLES & Design

TRANSMITTAL OF NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313

TRADEMARK PROCESS
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U.S. PATENT &
TRADEMARK OFFICE

Sir:

Enclosed herewith please find the following items:

- (1) Notice of Opposition - Original and 1 copy
- (2) Transmittal and 1 copy
- (3) Check

Enclosed herewith please find a check for \$300 to cover the cost of filing a Notice of Opposition in Class 30 only for the above-identified subject matter. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-4169. A duplicate of this letter is attached.

Respectfully submitted,

HALL & VANDE SANDE, LLC

By: 
Thomas J. Vande Sande
Attorneys for Opposer
10220 River Road, Suite 200
Potomac, Maryland 20854
(301) 983-2500

Date: 9/26/11



09-26-2011

SPRINKLES in connection with various goods and services, including ice cream, frozen yogurt, baked goods, candy and sweets, retail sales services and catering services in connection with the sale of such goods, and clothing, including but not limited to t-shirts.

2. Opposer Sprinkles has used the mark SPRINKLES in the United States in connection with its various goods and services since at least as early as 2002.
3. Opposer Sprinkles uses SPRINKLES as its trade name under which it provides goods and services.
4. Opposer Sprinkles has used, without interruption or abandonment, SPRINKLES as a trade name since at least as early as 2002.
5. Opposer Sprinkles' use of SPRINKLES as a mark and trade name predates Applicant's filing date and any use by Applicant of SPRINKLES.
6. Substantial secondary meaning in SPRINKLES has been established due to its long and widespread use and promotion by Opposer as a trademark, service mark, and trade name. The mark SPRINKLES is a symbol of considerable good will and recognition built up by Opposer through substantial amounts of time and effort.
7. Applicant, Sprinkles, Inc., is the owner of U.S. Trademark Application Serial No. 85148734 for the mark SPRINKLES and Design for use in connection with ice cream, in International Class 30.
8. Applicant's SPRINKLES and Design mark so resembles Opposer's mark and trade name as identified above in significance, general appearance, commercial impression, and verbal identification so as, when used on or in connection with Applicant's

recited goods, to be likely to cause confusion, to cause mistake, and to deceive.

9. On information and belief, the goods recited in Applicant's '734 application are offered and/or are to be offered in the same channels of trade as the goods and services offered by Opposer.
10. On information and belief, Opposer avers that the registration of the mark of U.S. Trademark Application Serial No. 85148734 would work to Opposer's disadvantage and would harm and damage Opposer in that the goodwill attached to the SPRINKLES mark and trade name of Opposer would likely be extended to Applicant without Opposer's consent, thereby benefiting Applicant rather than Opposer.
11. Opposer would be damaged through the issuance of a registration for SPRINKLES and Design to Applicant which includes Applicant's recitation of goods, as such registration would provide *prima facie* evidence of Applicant's right to use and have registered to it a mark which is confusingly similar to Opposer's mark and trade name.
12. On information and belief, Opposer avers that in the eyes and minds of a large part of the public, the mark SPRINKLES and Design as recited in U.S. Trademark Application Serial No. 85148734 is closely associated with the goods and services with which Opposer has used and is using SPRINKLES; that Applicant's use of the mark SPRINKLES and Design in connection with the goods recited in the '734 application creates or will create a likelihood of confusion and creates or will create a likelihood of deception of the public by causing the public, upon seeing SPRINKLES and Design so used, to believe that Applicant's recited goods are in reality Opposer's

goods, or goods offered and/or sold by Opposer or offered under the sponsorship, control or direction of Opposer; that such is likely to interfere with or embarrass Opposer; and that registration of the mark of U.S. Trademark Application Serial No. 85148734 will result in damage to Opposer and confusion and deception of the public.

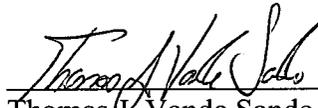
WHEREFORE, Opposer prays that registration of the mark of said U.S. Trademark Application Serial No. 85148734 be refused and that this Notice of Opposition be sustained in favor of Opposer.

Respectfully submitted,

HALL & VANDE SANDE, LLC

Date: _____

9/26/11



Thomas V. Vande Sande
Attorneys for Opposer
10220 River Road, Suite 200
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(301) 983-2500

CERTIFICATE OF SERVICE

The undersigned, Thomas J. Vande Sande, attorney for Opposer hereby certifies that one (1) copy of the foregoing "NOTICE OF OPPOSITION" was this day served on Applicant by mailing same, first class mail, to:

Mr. Aaron Hoffman
Sprinkles, Inc.
70 Monsey Heights Road
Airmont, New York 10952

Date: 9/26/11



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