

ESTTA Tracking number: **ESTTA463867**

Filing date: **03/26/2012**

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	SWH Corporation		
Entity	Corporation	Citizenship	California
Address	18872 MacArthur Blvd Suite 400 Irvine, CA 92612 UNITED STATES		

Attorney information	Cory M. Amron Vorys, Sater, Seymour and Pease LLP PO Box 2255 IPLaw@Vorys Columbus, OH 43216 UNITED STATES iplaw@vorys.com Phone:202.467.8800		
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Applicant Information

Application No	85439584	Publication date	03/20/2012
Opposition Filing Date	03/26/2012	Opposition Period Ends	04/19/2012
Applicant	Jung, Eun Ah 102-1204 Doosan We've Apt. 396, Sangsu-dong, Mapo-gu Seoul, KOREA, REPUBLIC OF		

Goods/Services Affected by Opposition

Class 043. All goods and services in the class are opposed, namely: Services for providing food and drink, namely, Snack bars, Self-service restaurants, Restaurants, Catering of food and drink, Cafeterias, Canteens, Cafes, Bar services, and Korean restaurants
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Applicant Information

Application No	85439625	Publication date	03/20/2012
Opposition Filing Date	03/26/2012	Opposition Period Ends	04/19/2012
Applicant	Jung, Eun Ah 102-1204 Doosan We've Apt. 396, Sangsu-dong, Mapo-gu Seoul, KOREA, REPUBLIC OF		

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Canteens, Cafes, Bar services, and Korean restaurants

Applicant Information

Application No	85439636	Publication date	03/20/2012
Opposition Filing Date	03/26/2012	Opposition Period Ends	04/19/2012
Applicant	Jung, Eun Ah 102-1204 Doosan We've Apt. 396, Sangsu-dong, Mapo-gu Seoul, KOREA, REPUBLIC OF		

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All goods and services in the class are opposed, namely: Services for providing food and drink, namely, Snack bars, Self-service restaurants, Restaurants, Catering of food and drink, Cafeterias, Canteens, Cafes, Bar services, and Korean restaurants

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Applications not filed by mark owner (Trademark Act Section 1(b))

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2132534	Application Date	02/05/1997
Registration Date	01/27/1998	Foreign Priority Date	NONE
Word Mark	MIMIS CAFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1996/06/00 First Use In Commerce: 1996/06/00 coffeeshop services		

U.S. Registration No.	3052780	Application Date	01/25/2005
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	MIMIS CAFE		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1996/06/00 First Use In Commerce: 1996/06/00 Restaurant services, coffee shop services, bar services		

U.S. Registration No.	3052781	Application Date	01/25/2005
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	MIMIS CAFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1978/12/19 First Use In Commerce: 1978/12/19 Restaurant services, coffee shop services, bar services		

U.S. Registration No.	3744361	Application Date	06/24/2009
Registration Date	02/02/2010	Foreign Priority Date	NONE
Word Mark	MIMIS CAFE FRESH & FIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2009/05/01 First Use In Commerce: 2009/05/01 Restaurant services		

U.S. Registration No.	3749117	Application Date	06/24/2009
Registration Date	02/16/2010	Foreign Priority Date	NONE
Word Mark	MIMIS CAFE KIDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2009/06/01 First Use In Commerce: 2009/06/01 Restaurant services		

U.S. Application No.	85182043	Application Date	11/22/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MIMIS CAFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: Frozen, prepared or packaged entrees and meals consisting primarily of meat, fish, poultry, seafood, vegetables, soups, fruit salads or vegetable salads; Frozen, prepared or packaged side dishes consisting primarily of meat, fish, poultry, seafood, vegetables, soups, fruit salads or vegetable salads Class 030. First use: Frozen, prepared or packaged entrees and meals consisting primarily of pasta, rice, macaroni, or noodles; Frozen, prepared or packaged side dishes consisting primarily of pasta, rice, macaroni, or noodles; Bakery goods		

U.S. Registration No.	3880912	Application Date	06/24/2009
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Registration Date	11/23/2010	Foreign Priority Date	NONE
Word Mark	MIMI'S MEANINGFUL MUFFIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2009/08/22 First Use In Commerce: 2009/08/22 Muffins Class 041. First use: First Use: 2009/04/01 First Use In Commerce: 2009/04/01 Conducting contests in the field of cooking recipes		

U.S. Registration No.	3744362	Application Date	06/24/2009
Registration Date	02/02/2010	Foreign Priority Date	NONE
Word Mark	MEET ME AT MIMI'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2009/06/15 First Use In Commerce: 2009/06/15 Restaurant services		

U.S. Registration No.	3886056	Application Date	04/20/2010
Registration Date	12/07/2010	Foreign Priority Date	NONE
Word Mark	MIMI'S		

Design Mark	<h1>MIMI'S</h1>		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1978/12/19 First Use In Commerce: 1978/12/19 Restaurant services		

U.S. Registration No.	3883126	Application Date	04/30/2010
Registration Date	11/30/2010	Foreign Priority Date	NONE
Word Mark	MIMI'S QUICK CAFE		
Design Mark	<h1>MIMI'S QUICK CAFE</h1>		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2010/04/10 First Use In Commerce: 2010/04/10 Restaurant services		

Attachments	75236938#TMSN.gif (1 page)(bytes) 76628691#TMSN.gif (1 page)(bytes) 76628692#TMSN.gif (1 page)(bytes) 77767253#TMSN.jpeg (1 page)(bytes) 77767265#TMSN.jpeg (1 page)(bytes) 85182043#TMSN.jpeg (1 page)(bytes) 77767260#TMSN.jpeg (1 page)(bytes) 77767269#TMSN.jpeg (1 page)(bytes) 85017879#TMSN.jpeg (1 page)(bytes) 85027223#TMSN.jpeg (1 page)(bytes) Opposition- MIMINE.pdf (5 pages)(190015 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	/Chris Ott/
Name	Christopher M. Ott
Date	03/26/2012

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

In the matter of Trademark Applications:

-  , Serial No. 85/439,584
-  , Serial No. 85/439,625
- MIMINE KOREAN SNACK BAR (stylized), Serial No. 85/439,636

Filing date: October 5, 2011

Publication date: March 20, 2012

SWH CORPORATION,

Opposer,

v.

EUN AH JUNG,

Applicant.

Opposition No. _____

NOTICE OF CONSOLIDATED OPPOSITIONS

SWH Corporation (“Opposer”), a California corporation located at 18872 MacArthur Boulevard, Suite 400, Irvine, California 92612, believes it will be damaged if Trademark Application Nos. 85/439,584, 85/439,625, and 85/439,636 (collectively, the “Applications”), each for the mark MIMINE (“Applicant’s Mark”) by Eun Ah Jung (“Applicant”), a Korean individual with a business address of 102-1204 Doosan We’ve Apt. 396, Sangsu-dong, Mapo-gu Seoul Republic Of Korea, registers and therefore opposes the Applications.

Because these applications and the corresponding opposition presents claims against a single defendant and involve similar questions of law and fact, Opposer believes a single consolidated Notice of Opposition is appropriate. TBMP §305.01.

BACKGROUND

1. Opposer owns the MIMI'S and MIMIS CAFE trademarks, including the marks in U.S. Trademark Registration Nos. 2,132,534, 3,052,780, 3,052,781, 3,744,361, 3,749,117 and Application No. 85/182,043 for MIMIS CAFE and U.S. Trademark Registration Nos. 3,880,912, 3,744,362, 3,886,056, 3,883,126 for MIMI'S (collectively, "Opposer's Marks"), the earliest of which registered on January 27, 1998.

2. Since at least as early as December 19, 1978, Opposer has continuously used Opposer's Marks in connection with *restaurant services* ("Opposer's Services").

3. Since at least as early as August 22, 2009, Opposer has continuously used Opposer's Marks with *muffins* and since at least as early as November 22, 2010 and as set forth in Application No. 85/182,043, Opposer has had a bona fide intent to use Opposer's Marks with various foods (collectively, "Opposer's Goods").

4. The public recognizes Opposer's Marks as exclusively identifying Opposer's Goods and Opposer's Services and Opposer's Marks embody the goodwill and reputation that Opposer has developed by continuously using Opposer's Marks.

5. On October 5, 2011, well after Opposer filed its first application for Opposer's Marks, Applicant filed the Applications, each for use with *Services for providing food and drink, namely, Snack bars, Self-service restaurants, Restaurants, Catering of food and drink, Cafeterias, Canteens, Cafes, Bar services, and Korean restaurants* ("Applicant's Services"), based on an intent to use that mark in commerce.

6. The Applications were published for opposition on March 20, 2012.

COUNT I: LIKELIHOOD OF CONFUSION

7. Applicant's Application No. 85/439,584 is comprised of the Chinese characters that transliterate to MIMINE.
8. Applicant's Application No. 85/439,625 is comprised of the Korean characters that transliterate to MIMINE.
9. Applicant's Mark, MIMINE, translates to MIMI'S PLACE in English.
10. Applicant's Mark and Opposer's Marks feature the identical elements MIMI and have nearly identical pronunciations.
11. The English translation of Applicant's Mark features the identical element MIMI'S and have nearly identical connotations.
12. Applicant's Services and Opposer's Goods are closely related and Applicant's Services are legally identical to Opposer's Services.
13. Opposer established its priority to MIMI'S (or MIMIS) formative marks by filing its applications for Opposer's Marks several years before Applicant filed the Applications.
14. Allowing the Applications to register would damage Opposer by interfering with Opposer's right to use Opposer's Marks in connection with Opposer's Goods and Opposer's Services.
15. Because of the similarity between Opposer's Marks and Applicant's Mark, and the closer relation between Opposer's Goods and Opposer's Services and Applicant's Services, Applicant's Mark is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe, incorrectly, that Applicant's Services emanate

from, are authorized or endorsed by, or are otherwise connected with Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

COUNT II: THE APPLICATION WAS NOT FILED BY THE MARK OWNER

16. Upon information and belief, when the applications were filed, Applicant neither owned Applicant's Mark nor was entitled to use it.

* * *

THEREFORE, Opposer prays that the Trademark Trial and Appeal Board sustain this Opposition and refuse to register Trademark Application Nos. 85/439,584, 85/439,625, and 85/439,636 for MIMINE.

Please charge all fees to Deposit Account No. 22-0585.

Please recognize Cory M. Amron, William H. Oldach III, Christopher M. Ott, and Richard S. Donnell, all members of the bar of the District of Columbia, and the firm of Vorys, Sater, Seymour and Pease, LLP, as Opposer's attorneys to prosecute this Notice of Opposition and to transact all relat

atent and Trademark Office.

tted,

Date: March 26, 2012


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William H. Oldach III
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Washington, DC 20006
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Attorneys for Opposer
SWH CORPORATION

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice of Opposition was served on March 26, 2012, by first-class United States Mail, postage prepaid, on Applicant's domestic representative:

Evan A. Raynes, Esq.
Sunwoo Lee, Esq.
Roetzel & And
600 14th Street,
Washington, D



Christopher M. Ott