

ESTTA Tracking number: **ESTTA503369**

Filing date: **11/02/2012**

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	Patterson Enterprises DBA Suncare Distributors
Granted to Date of previous extension	12/01/2012
Address	1122 Route 16 Barrigada, GU 96913 UNITED STATES

Attorney information	Thomas L. Holt Steptoe & Johnson LLP 1330 Connecticut Avenue, N.W. Washington, DC 20036 UNITED STATES ipdocketing@steptoe.com
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Applicant Information

Application No	85546646	Publication date	10/02/2012
Opposition Filing Date	11/02/2012	Opposition Period Ends	12/01/2012
Applicant	Denise R. Selk 149 Chalan Guefan Inarajan, 96915 GU		

Goods/Services Affected by Opposition

Class 030. First Use: 2012/03/08 First Use In Commerce: 2012/03/08
All goods and services in the class are opposed, namely: Chocolate confections; Cookies

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Applicant is estopped from registering the mark based on the doctrine of unclean hands.

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85563577	Application Date	03/08/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HAFA ADAI		

Design Mark	HAF A ADAI
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2012/02/01 First Use In Commerce: 2012/02/01 Chocolate confections

Attachments	85563577#TMSN.jpeg (1 page)(bytes) Notice of Opposition-HAFA ADAI-Final.pdf (5 pages)(14240 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	/Thomas L.Holt/
Name	Thomas L. Holt
Date	11/02/2012

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

PATTERSON ENTERPRISES d/b/a)	
SUNCARE DISTRIBUTORS,)	
)	Opposition No. _____
Opposer,)	
)	Serial No. 85/546,646
v.)	
)	Mark: HAF A ADAI
DENISE R. SELK d/b/a)	
COCO-JO's.)	Filing Date: February 18, 2012
)	
Applicant.)	NOTICE OF OPPOSITION
)	

Patterson Enterprises d/b/a Suncare Distributors, a Guam corporation with its place of business at 1122 Route 16, Barrigada, Guam 96913 (“Suncare”), believes that it will be damaged by registration of the mark HAF A ADAI, Serial No. 85/546,646, filed on February 18, 2012 by Denise R. Selk d/b/a/ Coco-Jo’s, a Guam sole proprietorship with a place of business at 149 Chalan Guefan, Inarajan Guam 96915.

Suncare hereby opposes registration of the HAF A ADAI mark on the following grounds:

1. Suncare is a provider of various consumer products, including food and confectionery products, all of which are marketed and sold in interstate commerce.
2. On February 1, 2012, Suncare launched a line of confectionery products under the mark HAF A ADAI. Suncare has invested considerable time, money, and effort in advertising, promoting, and marketing its products under the HAF A ADAI trademark and in establishing HAF A ADAI in the minds of consumers as identifying high quality

confectionery offered by Suncare. The HAFA ADAI trademark has been printed on a variety of materials, such as packaging and related advertising and promotional items.

3. The HAFA ADAI trademark is inherently distinctive. By reason of its use and promotion, Suncare's HAFA ADAI trademark has become favorably known among consumers as used in connection with Suncare's confectionery products and has become a valuable asset as a symbol of Suncare, its quality products and its goodwill.

4. Suncare has taken steps to protect the HAFA ADAI trademark for chocolate confections by filing applications to register this mark, first with the Guam Department of Revenue & Taxation on February 15, 2012 and later with the U.S. Patent and Trademark Office ("USPTO") on March 8, 2012 under Application No. 85/563,577. Suncare's application to register the HAFA ADAI trademark with the Guam Department of Revenue & Taxation subsequently issued on April 16, 2012 under Guam Registration No. TPC-800-351-916.

5. Notwithstanding Suncare's prior adoption of the HAFA ADAI trademark on February 1, 2012 and Suncare's prior filing of its Guam trademark application for the HAFA ADAI mark on February 15, 2012, Coco-Jo's thereafter filed on February 18, 2012 U.S. Serial Application No. 85/546,646 for the identical HAFA ADAI mark in International Classes 30 covering directly competitive products –chocolate confections and cookies. Upon information and belief, Coco-Jo's began using the HAFA ADAI mark with confectionery products and cookies several weeks later on March 8, 2012.

6. Upon information and belief, Coco-Jo's use of the confusingly similar HAFA ADAI Mark in connection with confectionery and cookies began subsequent to

Suncare's adoption and use of its HAFA ADAI trademark and after Suncare filed its Guam application to register the HAFA ADAI trademark.

7. Upon information and belief, Coco-Jo's had actual knowledge of Suncare's distinctive HAFA ADAI trademark and its Guam application to register the HAFA ADAI mark before filing Application Serial No. 85/546,646.

8. Suncare did not authorize Coco-Jo's adoption and use of the HAFA ADAI trademark. On information and belief, Coco-Jo's intended to trade and capitalize on the goodwill generated by Suncare's HAFA ADAI trademark.

9. Coco-Jo's HAFA ADAI mark is confusingly similar in sight, sound, and commercial impression to Suncare's HAFA ADAI mark.

10. Coco-Jo's HAFA ADAI mark so closely resembles Suncare's HAFA ADAI mark that, if used in connection with the applied for goods, it would be likely to cause confusion, mistake or deception of the relevant trade and public under Section 2(d) of the Trademark Act. Consumers will likely believe that Coco-Jo's products are in some way associated with or connected with, or approved or authorized by, Suncare, or that Coco-Jo's products otherwise originate from the same source as do Suncare's products, which is not the case.

11. Upon information and belief, Coco-Jo's filed Application Serial No. 85/546,646 immediately after learning of Suncare's adoption of the HAFA ADAI mark and its application to register the mark with the Guam Department of Revenue & Taxation on February 15, 2012. Coco-Jo's is therefore estopped from registering HAFA ADAI mark under the doctrine of unclean hands.

12. By reason of the foregoing, Suncare believes that it will be damaged by registration of Coco-Jo's HAFA ADAI mark in connection with the applied for goods.

WHEREFORE, Suncare prays that this Opposition be sustained and that Application Serial No. 85/546,646 be refused registration.

Respectfully submitted,

PATTERSON ENTERPRISES d/b/a
SUNCARE DISTRIBUTORS

Dated: November 2, 2012

By: /s/ Thomas L. Holt
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2012 I served a true and correct copy of the foregoing NOTICE OF OPPOSITION Applicant by U.S. mail at the following address:

Ms. Denise R. Selk
Coco-Jo's
149 Chalan Guefan
Inarajan, GUAM 96915

/s/ Thomas L. Holt _____
One of the Attorneys for Opposer
Patterson Enterprises d/b/a
Suncare Distributors