

ESTTA Tracking number: **ESTTA535104**

Filing date: **04/30/2013**

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	Stonefire Grill, Inc.		
Entity	Corporation	Citizenship	California
Address	5655 Lindero Canyon Road, Suite 204 Westlake Village, CA 91362 UNITED STATES		

Attorney information	Afschineh Latifi Tucker & Latifi, LLP 160 East 84th Street, Suite 5-E New York, NY 10028 UNITED STATES alatifi@tuckerlatifi.com Phone:212-472-6262		
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### Applicant Information

Application No	85851936	Publication date	04/16/2013
Opposition Filing Date	04/30/2013	Opposition Period Ends	05/16/2013
Applicant	FGF Brands, Inc. 475 Rivermede Road Concord, Ontario, L4K3N1 CANADA		

### Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Crackers; Crisp bread; Flour-based chips; Grain-based chips; Pita chips
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### Applicant Information

Application No	85828957	Publication date	04/16/2013
Opposition Filing Date	04/30/2013	Opposition Period Ends	05/16/2013
Applicant	FGF Brands, Inc. 475 North Rivermede Road Concord, Ontario, L4K3N1 CANADA		

### Goods/Services Affected by Opposition

Class 030. First Use: 2011/03/01 First Use In Commerce: 2011/03/01 All goods and services in the class are opposed, namely: Flat bread
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## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2880327	Application Date	11/06/2002
Registration Date	08/31/2004	Foreign Priority Date	NONE
Word Mark	STONEFIRE GRILL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2002/12/01 First Use In Commerce: 2002/12/01 Restaurant services		

U.S. Registration No.	3716351	Application Date	07/17/2008
Registration Date	11/24/2009	Foreign Priority Date	NONE
Word Mark	STONEFIRE GRILL		
Design Mark			
Description of Mark	The mark consists of the words "STONEFIRE GRILL" in stylized form, with flames in the background.		
Goods/Services	Class 043. First use: First Use: 2002/12/01 First Use In Commerce: 2002/12/01 Bar and restaurant services		

U.S. Registration No.	3716355	Application Date	07/17/2008
Registration Date	11/24/2009	Foreign Priority Date	NONE
Word Mark	STONEFIRE GRILL A FRESH APPROACH TO FAMILY DINING!		
Design Mark			
Description of Mark	The mark consists of the words "STONEFIRE GRILL", with flames in the background and the words "A FRESH APPROACH TO FAMILY DINING!" appearing at the bottom.		
Goods/Services	Class 043. First use: First Use: 2006/09/01 First Use In Commerce: 2006/09/01 Bar and restaurant services		

Attachments	Stonefire Grill Notice of Opp.pdf ( 5 pages )(88008 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	/Afschineh Latifi/
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Name	Afschineh Latifi
Date	04/30/2013

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

In the matter of Application Serial Nos. 85/851936 & 85/828957  
Trademarks: STONEFIRE & STONEFIRE Authentic Flatbreads plus Design  
Published: April 16, 2013

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Stonefire Grill, Inc.

Opposer,

-against-

FGF Brands, Inc. d/b/a Stonefire  
Authentic Flatbreads

Applicant.

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Opposition No.

**NOTICE OF OPPOSITION**

Opposer, Stonefire Grill, Inc. ("Opposer"), believes that it will be damaged by the registration of Application Serial No. 85/851936 for the mark STONEFIRE and Application Serial No. 85/828957 for the mark STONEFIRE AUTHENTIC FLATBREADS plus Design (hereinafter "the Infringing Marks") and hereby opposes registration of the marks to FGF Brands, Inc. d/b/a Stonefire Authentic Flatbreads ("Applicant").

As grounds for opposition, it is alleged that:

1. Opposer is a California corporation with an office and place of business located in Westlake Village, California.
2. Opposer is also the owner of U.S. Registration Nos. 2,880,327 (now incontestable), 3,716,351 and 3,716,355 for the STONEFIRE GRILL family of marks, all in International Class 43 for bar and restaurant services (hereinafter collectively referred to as the "Stonefire Mark").
3. Opposer has been operating a chain of unique fast-casual restaurants, with an emphasis on healthy eating throughout California since as early as 2002 and has obtained nationwide press for its delicious and nutritious fast food. Although Opposer's restaurants are operated under the STONEFIRE GRILL name, Opposer refers to itself and to its products and services in all of its promotional materials, including on its menu, website and blog, as simply STONEFIRE. In addition, customers frequently refer to Opposer's restaurants, products and services as just "STONEFIRE".
4. Among Opposer's many products marketed and sold under the Stonefire Mark are Opposer's bread sticks which Opposer has been marketing and selling in its restaurants since January 2003. Opposer also offers a wide variety of breads, including but not limited to French rolls, tortillas and pizza crusts.
5. As a result of the continuous unsolicited media coverage Opposer has been receiving over the past 11 years for its STONEFIRE GRILL chain of restaurants and products, consumers readily identify the Stonefire Mark with Opposer's restaurants and the healthy products sold by Opposer under its mark.
6. Opposer's restaurants have gained tremendous nationwide fame and

notoriety and have become known as the fast-casual chain of restaurants with the alternative healthy and diverse menu.

7. In or about April of 2013, Opposer was alerted to the use and applications by Applicant of the Infringing Marks for a line of breads and flatbreads under the Infringing Marks. Applicant seeks to register the Infringing Marks (STONEFIRE and STONEFIRE AUTHENTIC FLATBREADS plus Design) for goods in International Class 30. Separate and apart from the fact that through its uninterrupted and continuous use of the Stonefire Mark in connection with a chain of restaurants Opposer has made the Stonefire Mark famous, thus making the mark readily identifiable by the purchasing public with Opposer, Opposer has also been distributing and selling a line of breadsticks under the Stonefire Mark since at least as early as January 2003 for competing goods for which Applicant is seeking registrations.

8. As a result of the tremendous unsolicited press as well as the paid advertisements for the **STONEFIRE GRILL** chain of restaurants and product lines, there is no doubt that consumers will be led to the mistaken belief that Applicant's line of breads and flatbreads originate from Opposer, or that these products are somehow sponsored, authorized or approved by Opposer, all to the detriment of Opposer.

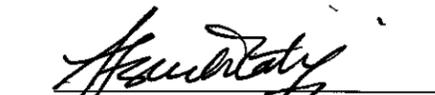
9. The registration by Applicant of the Infringing Marks will dilute and impair Opposer's rights in its **STONEFIRE GRILL** mark, which it has spent over 11 years cultivating, promoting and making famous. If Applicant is permitted to register its Infringing Marks, such registrations will eventually result in the inability of Opposer's **STONEFIRE GRILL** mark to function as an indicator of origin of its goods and services and will also create confusion in the marketplace as to the source of goods and

services.

WHEREFORE, Opposer respectfully prays that this Notice of Opposition be sustained and that the registration of Application Serial Nos. 85/851936 and 85/828957 be rejected, and that the registration of the trademarks therein sought, for the goods therein specified, be denied and refused.

Dated: New York, New York  
April 30, 2013

Respectfully submitted,

  
Afshineh Latifi, Esq.  
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New York, NY 10028  
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**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing Notice of Opposition was served by first class mail, postage prepaid, upon Applicant, this 30<sup>th</sup> day of April, 2013, as follows:

FGF Brands, Inc.  
475 North Rivermede Road  
Concord, Ontario L4K3N1  
Canada

  
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