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

Proceeding	91210863
Party	Defendant Thanco Products & Imports, Inc.
Correspondence Address	D. Peter Harvey Harvey Siskind LLP 4 Embarcadero Center, 39th Floor San Francisco, CA 94111-4115 UNITED STATES pharvey@harveysiskind.com, ngray@harveysiskind.com, clee@harveysiskind.com
Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	Naomi Jane Gray
Filer's e-mail	pharvey@harveysiskind.com, ngray@harveysiskind.com, clee@harveysiskind.com, kmcknight@harveysiskind.com
Signature	/Naomi Jane Gray/
Date	06/28/2013
Attachments	Thanco Motion to Dismiss Economides Opposition 13624 (00021066).pdf(338535 bytes)

1 HARVEY SISKIND LLP
D. PETER HARVEY (CA SBN 55712)
2 pharvey@harveysiskind.com
3 NAOMI JANE GRAY (CA SBN 230171)
ngray@harveysiskind.com
4 KATE W. MCKNIGHT (CA SBN 264197)
kmcknight@harveysiskind.com
5 Four Embarcadero Center, 39th Floor
San Francisco, CA 94111
6 Telephone: (415) 354-0100
7 Facsimile: (415) 391-7124

8 Attorneys for Applicant,
9 Thanco Products & Imports, Inc.

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

13	_____)	
14	CHRIS ECONOMIDES III,)	
	an individual,)	
15	Opposer,)	MOTION AND MEMORANDUM
	v.)	IN SUPPORT OF APPLICANT’S
16	THANCO PRODUCTS & IMPORTS, INC.)	MOTION TO DISMISS OPPOSER’S
	a Texas corporation,)	NOTICE OF OPPOSITION
17	Applicant.)	
18	_____)	Opposition No. 91210863
19		
20		

21 **APPLICANT’S MOTION TO DISMISS NOTICE OF OPPOSITION**

22
23 Applicant Thanco Products & Imports, Inc. (“Thanco”) respectfully requests dismissal of the
24 Notice of Opposition (the “Opposition”) filed by Opposer Chris Economides III (“Economides”) because (1) Economides lacks standing to bring the Opposition pursuant to 15 U.S.C. § 1064 and
25 T.B.M.P. § 309.03(b); and (2) the Opposition fails to state a claim for relief under Rule 12(b)(6) of the
26 Federal Rules of Civil Procedure. As discussed in detail below, Economides’ Opposition is legally
27 deficient because he has no real interest in these proceedings or a reasonable belief of damage, and he
28

1 fails to properly allege facts sufficient to support any of the cryptic claims set forth in his Opposition,
2 including (a) fraud; (b) descriptiveness (including geographical descriptiveness and failure to prove
3 secondary meaning); (c) improper prosecution of the mark; (d) interference with a foreign owner’s
4 mark; (e) Thanco’s mark consists of a national symbol, deceptiveness, and false suggestion of a
5 connection under Section 2(a); and (f) geographic indication which, if used on or in connection with
6 wine or spirits, identifies a place other than the origin of the goods.

7 **BACKGROUND**

8 On May 29, 2013, Economides filed an Opposition opposing registration of Application Nos.
9 77378572 and 77369646 (the “Applications”) for the mark GOT OUZO? in connection with “coffee
10 cups, tea cups and mugs” in International Class 021 and “t-shirts, sweat shirts, and caps” in
11 International Class 025, respectively. The Opposition consists of an ESTTA form Notice of Opposition,
12 and lists the grounds for opposition as deceptiveness, false suggestion of a connection, geographic
13 indication, descriptiveness, geographic descriptiveness, “Torres v. Cantine Torresella S.r.l. fraud,”
14 improper prosecution, failure to show secondary meaning, Papa Ads, LLC v. Gatehouse Media, Inc.,
15 and “mark interferes with foreign owner’s mark.” Attached to the form are Economides’ specific
16 allegations, set forth in seven numbered paragraphs (with subparts).

17 Economides claims to be injured by the Applications because “he makes and sells clothing for
18 numerous customers including Greek Orthodox Churches and Festivals and would be harmed by the
19 registration of the mark as applied for.” Opp. at ¶ 1. This sole allegation with respect to “harm” is
20 insufficient to meet the standing requirements for an opposition under Section 13 of the Lanham Act, 15
21 U.S.C. § 1063. As grounds for the Opposition, in his specific allegations Economides refers to
22 common-law rights of a foreign third party, makes several misstatements regarding prosecution of the
23 Applications as it relates to evidence of secondary meaning, and makes several general allegations with
24 no factual support whatsoever. Each and every one of Economides’ supposed allegations fails to
25 provide enough factual detail to give Thanco fair notice of Economides’ claims and as such falls far
26 short of stating a plausible claim for relief under Rule 12(b)(6) of the Federal Rules of Civil Procedure.

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1 **ARGUMENT**

2 “A party opposing a registration pursuant to Section 13 of the Lanham Act must show (1) that
3 he has standing and (2) a statutory ground which negates the applicant’s entitlement to registration.
4 Moreover, an opposer must at the pleading stage allege facts in support of both, a conclusion that is
5 fully consistent with the PTO’s rules.” *Young v. AGB Corp.*, 152 F.3d 1377, 1380 (Fed. Cir. 1998). The
6 Board reviews a Motion to Dismiss by assuming all well-pleaded allegations in the Opposition are true,
7 and construing these allegations in a light most favorable to the opposer. *Consolidated Foods Corp. v.*
8 *Big Red, Inc.*, 226 U.S.P.Q. 829, 831 (T.T.A.B. 1985). Under the heightened pleading standard
9 announced by the Supreme Court in *Bell Atlantic Corp. v. Twombly*. and confirmed in *Ashcroft v. Iqbal*,
10 these allegations must consist of “a short and plain statement of the claim showing that the pleader is
11 entitled to relief” in order to ‘give the defendant fair notice of what the ... claim is and the grounds upon
12 which it rests.’” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007); see also *Ashcroft v. Iqbal*,
13 556 U.S. 662, 677-678 (2009). The grounds of the complaint must include “more than labels and
14 conclusions, and a formulaic recitation of the elements of a cause of action will not do;” the “[f]actual
15 allegations must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at
16 555; see also *Iqbal*, 556 U.S. at 677-678 (finding that “[a] claim has facial plausibility when the plaintiff
17 pleads factual content that allows the court to draw the reasonable inference that the defendant is liable
18 for the misconduct alleged.”).

19 Even under this deferential standard, *Economides* fails to state a claim upon which relief can be
20 granted because the Opposition contains no facts that reasonably support standing or the pleaded
21 grounds, and many of the claims do not even allege statutory grounds for opposition. *Thanco’s* Motion
22 to Dismiss should be granted because “it is clear that no relief could be granted under any set of facts
23 that could be proved consistent with the allegations.” *Young*, 152 F.3d at 1379.

24 **I. Economides lacks standing to oppose Thanco’s Applications.**

25 “Any person who believes that he would be damaged by the registration of a mark upon the
26 principal register” may file an opposition. 15 U.S.C.A. § 1063; see also *Ritchie v. Simpson*, 170 F.3d
27 1092, 1095 (Fed. Cir. 1999). However, an opposer’s allegations alone do not establish standing. *Lipton*
28 *Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 1028 (C.C.P.A. 1982). “In addition to meeting

1 the broad requirements of § 13, an opposer must meet two judicially-created requirements in order to
2 have standing”: the opposer must have (1) a “real interest” in the proceeding; and (2) a “reasonable
3 basis” for his belief of damage. *Ritchie*, 170 F.3d at 1095. These standing requirements have been
4 established in order to “prevent litigation where there is no real controversy between the parties, where
5 a plaintiff, petitioner or opposer, is no more than an intermeddler.” *Lipton Industries*, 670 F.2d at 1028-
6 29.

7 An opposer has a real interest if he alleges a direct and personal stake in the outcome of the
8 proceeding. T.B.M.P. § 309.03(b). Though there is no requirement that actual damage be pleaded in
9 order to establish a real interest in the proceeding, the opposer must show that he has a personal interest
10 in the outcome of the proceeding that is different than or beyond that of the general public. T.B.M.P. §
11 309.03(b); see also *Int’l Order of Job’s Daughters v. Lindeburg & Co.*, 727 F.2d 1087, 1092 (T.T.A.B.
12 1984). For instance, in *Doyle v. Al Johnson’s Swedish Restaurant & Butik, Inc.*, the petitioner sought to
13 cancel the registrant’s mark featuring goats positioned on a grass roof, claiming he was damaged by
14 registration of the mark because he was not able to “satisfy his desire to take photographs of goats on
15 grass roofs.” *Doyle v. Al Johnson’s Swedish Restaurant & Butik, Inc.*, 2012 TTAB LEXIS 30, 1-2
16 (T.T.A.B. 2012). The Board found that the petitioner did not have a real interest in the proceedings
17 because he did not allege that the registered mark “somehow prevents petitioner himself from placing
18 goats on a grass roof and taking their picture, or taking pictures of goats on a sod roof found elsewhere.”
19 *Id.* at 5-8.

20 Similarly, though Economides alleges that he sells clothing at Greek Orthodox Churches and
21 festivals, he does not allege that he makes and sells coffee cups, tea cups and mugs bearing GOT
22 OUZO? or confusingly similar marks, and does not allege that he uses GOT OUZO? or confusingly
23 similar marks on his clothing. In fact, Economides does not allege that he has any interest whatsoever
24 in Application No. 77378572 for GOT OUZO? in connection with coffee cups, tea cups and mugs.
25 Though Economides may have a general interest in making and selling clothing, as many retailers do,
26 he does not relate his alleged impairment of his asserted interest in making and selling clothing to
27 Thanco’s GOT OUZO? marks in any manner, and fails to establish a real interest in these proceedings
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1 as they relate to Application No. 77369646. As a result, Economides lacks standing to bring this
2 Opposition.

3 Economides has also failed to establish a reasonable basis for his belief of damage. To have
4 standing, “[t]he allegations in support of [opposer’s] belief of damage must have a reasonable basis ‘in
5 fact.’” T.B.M.P. § 309.03(b). An opposer need not prove his case on the merits for standing purposes,
6 but must allege facts “sufficient to show that [he] is not alone in his belief of damage, i.e., the belief is
7 not simply the opposer’s subjective view.” Ritchie, 170 F.3d at 1098. For example, the opposer in
8 Ritchie v. Simpson had a reasonable basis for his belief that he would be damaged by registration of O.J.
9 SIMPSON, O.J, and THE JUICE in connection with a broad range of goods where he alleged that he
10 had obtained petitions signed by people from all over the United States who agreed that the marks were
11 immoral and scandalous. Id. at 1098. The Board held these petitions established that opposer had
12 objective proof that he was not alone in his belief that he would be damaged by registration of the
13 marks. Id.

14 Unlike the opposer in Ritchie, Economides does not allege any facts that support his belief that
15 he will be harmed by registration of Thanco’s marks, and provides no reasonable basis for this purely
16 subjective belief. Based on Economides’ allegations, it is entirely unreasonable to believe that
17 registration of Thanco’s marks will harm his ability to make and sell clothing, and Economides
18 therefore lacks standing to bring this Opposition. There is no real controversy between the parties to
19 this Opposition and Economides is no more than a mere intermeddler.

20 **II. The Opposition fails to state a claim for relief under Rule 12(b)(6) of the Federal Rules of**
21 **Civil Procedure.**

22 Economides must also allege facts which would, if proved, establish that there is a valid ground
23 for opposing Thanco’s applications. Young, 152 F.3d at 1380. Pursuant to Rule 8(a)(2) of the Federal
24 Rules of Civil Procedure, made applicable to trademark proceedings by Trademark Rule 2.116(a),
25 Economides’ Opposition must “set forth a short and plain statement showing why [he] believes [he]
26 would be damaged by the registration of the opposed mark[s] and state the ground[s] for opposition.”
27 McDonnell Douglas Corp. v. Nat’l Data Corp., 1985 TTAB LEXIS 144, 7-8 (T.T.A.B. 1985). In
28 determining whether an opposer has stated a plausible claim for relief, the Board will examine whether

1 “the pleading gives fair notice and states the elements of the claim plainly and succinctly. Sufficient
2 detail must be given so that the [applicant] may obtain a fair idea of the [opposer’s] complaint and of the
3 legal basis for recovery.” Id. at 8; see also *Iqbal*, 556 U.S. at 677-678 (finding that the pleading
4 standard “does not require ‘detailed factual allegations,’ but it demands more than an unadorned, the-
5 defendant-unlawfully-harmed-me accusation.”).

6 Economides purports to allege the following claims in his Opposition: (a) fraud; (b)
7 descriptiveness (including geographical descriptiveness and failure to prove secondary meaning); (c)
8 improper prosecution of the mark; (d) interference with a foreign owner’s mark; (e) Thanco’s mark
9 consists of a national symbol, deceptiveness, and false suggestion of a connection under Section 2(a);
10 and (f) geographic indication which, if used on or in connection with wine or spirits, identifies a place
11 other than the origin of the goods. As discussed in detail below, Economides fails to allege sufficient
12 facts to support each and every one of his claims, and in many cases even fails to allege a statutory
13 ground for opposition. Thus, he has failed to provide Thanco with sufficient notice of his claims and
14 has not successfully pleaded a single claim for which relief may be granted.

15 A. Fraud

16 Rule 9(b) of the Federal Rules of Civil Procedure, made applicable to Board proceedings by
17 Trademark Rule 2.116(a), requires that “[i]n alleging fraud or mistake, a party must state with
18 particularity the circumstances constituting fraud or mistake. . . .” *Exergen Corp. v. Wal-Mart Stores,*
19 *Inc.*, 575 F.3d 1312, 1327 (Fed. Cir. 2009). “[T]his means the who, what, when where, and how of the
20 alleged fraud.” Id. (citing and quoting *DiLeo v. Ernst & Young*, 901 F.2d 624, 627 (9th Cir. 1990)).
21 Allegations of fraud fail to meet the Rule 9(b) requirements where “they are unsupported by any
22 statement of facts providing the information upon which petitioner relies or the belief upon which the
23 allegation is founded (i.e., known information giving rise to petitioner’s stated belief, or a statement
24 regarding evidence that is likely to be discovered that would support a claim of fraud).” *Asian and*
25 *Western Classics B.V. v. Selkow*, 2009 TTAB LEXIS 643, *4 (T.T.A.B. 2009). In fact, “the very nature
26 of the charge of fraud requires that it be proven ‘to the hilt’ with clear and convincing evidence. There
27 is no room for speculation, inference or surmise and, obviously, any doubt must be resolved against the
28 charging party.” *Smith Int’l, Inc. v. Olin Corp.*, 209 U.S.P.Q. 1033, 1044 (T.T.A.B. 1981). Moreover,

1 “allegations based solely on information and belief raise only the mere possibility that such evidence
2 may be uncovered and do not constitute pleading of fraud with particularity.” Asian and Western
3 Classics, 2009 TTAB LEXIS at *3.

4 Economides alleges that “Applicant has misrepresented evidence in a willful intent to deceive
5 the USPTO in its prosecution of the applications for registration of the mark as applied for.” Opp. at ¶
6 4. This conclusory statement falls far short of what is required by Rule 9(b). Economides does not
7 identify a single alleged misrepresentation, or any evidence that was the subject of an alleged
8 misrepresentation. Economides’ sole allegation simply parrots statutory language, which does not give
9 Thanco fair notice of the basis for Economides’ claims and does not set forth sufficient facts to establish
10 the elements necessary for recovery. See McDonnell Douglas, 1985 TTAB LEXIS at 8. To the extent
11 the allegation is based on a subjective belief and not hard facts, it is insufficient to plead fraud with
12 particularity. Asian and Western Classics, 2009 T.T.A.B. LEXIS 643, at *3.

13 Economides also cites Miguel Torres v. Cantine Torresella S.r.l., 808 F.2d 46 (Fed. Cir. 1986)
14 without explanation. Under Torres, a trademark is obtained fraudulently under the Lanham Act only if
15 the applicant knowingly makes a false, material misrepresentation with the intent to deceive the
16 Trademark Office. Miguel Torres v. Cantine Torresella S.r.l., 808 F.2d 46, 48 (Fed. Cir. 1986). The
17 “Torres holding does not deviate from the established rule that intent to deceive is required to find
18 fraud.” In re Bose Corp., 580 F.3d 1240, 1246 (Fed. Cir. 2009). This standard requires that the
19 applicant know he is making a material misrepresentation, not that he should know he is making a
20 material misrepresentation. Torres stands for the proposition that allegations of fraud must amount to a
21 knowing misrepresentation and not mere negligence. Here, Economides does not allege either a
22 knowing misrepresentation or a negligent misrepresentation by Thanco.

23 Although knowledge and intent may be averred generally, the pleadings must “allege sufficient
24 underlying facts from which a court may reasonably infer that a party acted with the requisite state of
25 mind.” Exergen, 575 F.3d at 1327. In Bose, for example, where the challenger could not point to
26 evidence to support an inference of deceptive intent, it failed to establish a fraud claim and the
27 applicant’s false misrepresentation was found to be an honest misunderstanding without a willful intent
28 to deceive. Bose, 580 F.3d at 1246. Likewise, Economides does not allege any facts to support his

1 claim that Thanco had a willful intent to deceive the Trademark Office. Because Economides has failed
2 to plead fraud with any particularity whatsoever, he fails to state a claim under Rules 9(b) and 12(b)(6)
3 of the Federal Rules of Civil Procedure.

4 B. Improper Prosecution of the Mark

5 The available grounds to oppose a trademark application are strictly limited by statute. Flash &
6 Partners S.p.A. v. I. E. Mfg. LLC, 2010 TTAB LEXIS 306, *3 (T.T.A.B. 2010); see also T.B.M.P. §
7 309.03(c). Allegedly improper prosecution by an Examining Attorney is not a valid ground for denying
8 registration. Flash & Partners, 2010 TTAB LEXIS 306, at * 3.

9 In his Notice of Opposition, Economides attempts to analyze the prosecution history of the
10 marks and alleges that “[i]nstead of the applications being terminated as specified in TMEP the
11 examining attorney allowed applicant another six months to attempt to overcome the objections in the
12 Final Office Action.” Opp. at ¶ 2. Citing Papa Ads, LLC v. Gatehouse Media, Inc., Economides also
13 appears to question the sufficiency of the evidence of secondary meaning Thanco submitted with its
14 Office Action Response, which was accepted by the Examining Attorney. Opp. at ¶ 3. These
15 allegations address ex parte determination issues - specifically, whether Thanco (1) timely submitted a
16 response to an Office Action and (2) submitted sufficient evidence of secondary meaning. Accordingly,
17 these allegations fail to state a proper ground for an inter partes proceeding. “Considerations of due
18 process, as well as fairness to parties against whom allegations of examination error are asserted, dictate
19 that such matters be solely a matter for ex parte determination” – not inter partes determination as in
20 an opposition – “and not grounds for opposition.” Saint-Gobain Abrasives, Inc. v. Unova Indus.
21 Automation Sys. Inc., 66 U.S.P.Q.2D 1355, 1359 (T.T.A.B. 2003). Because improper prosecution is not
22 a statutory grounds for opposition, Economides fails to state a claim for which relief may be granted.

23 C. Descriptiveness

24 The Lanham Act prohibits registration of marks that are “merely descriptive or deceptively
25 misdescriptive” of the subject goods, as well as marks that are “primarily geographically descriptive” of
26 the subject goods. 15 U.S.C. §§ 1052(e)(1)-(2). Economides cites these provisions but fails to allege
27 that Thanco’s use of GOT OUZO? is either descriptive of the goods or geographically descriptive of the
28 goods in question. Bald allegations merely reciting the language of the statute – or in this case, simply

1 citing to the statute with no supporting factual allegations – “neither give respondent fair notice of the
2 basis for petitioner’s claim nor set forth sufficient facts to establish the elements necessary for recovery,
3 if proven.” McDonnell Douglas, 1985 TTAB LEXIS at 8.

4 Economides makes no factual allegation in support of the contention that GOT OUZO? is
5 descriptive of the goods in question. Indeed, it is plain on the face of the applications that the mark is
6 not descriptive. Serial No. 77378572 seeks to register the mark GOT OUZO? in connection with
7 “coffee cups, tea cups and mugs.” Serial No. 77369646 seeks to register the mark GOT OUZO? in
8 connection with “t-shirts, sweat shirts, and caps.” GOT OUZO? has nothing to do with coffee and tea
9 mugs or clothing.

10 Economides’ sole allegation in support of his purported claim for geographic descriptiveness
11 states, “As defined by TRIPS, OUZO serves as a geographical indication of Greece and, as such, is
12 prohibited from being registered as a trademark in the United States.” Opp. at ¶ 7. Economides cites
13 no specific provision of TRIPS that he alleges is relevant to Thanco’s applications. In any event,
14 Thanco’s mark is not OUZO, but GOT OUZO?. Economides does not, and cannot seriously, allege that
15 “when used on or in connection with” coffee mugs, tea mugs, t-shirts, sweat shirts, and caps, GOT
16 OUZO? “is geographically descriptive of” those goods. 15 U.S.C. § 1052(e)(2). T-shirts, coffee mugs,
17 and the like do not necessarily originate from Greece.

18 Accordingly, Economides’ purported claims of descriptiveness should be dismissed for failure to
19 properly plead a claim upon which relief may be granted.

20 D. Interference with a Foreign Owner’s Mark

21 An interference can be declared only upon petition to the Director, and cannot be alleged in an
22 opposition. 37 C.F.R. § 2.91(a). “Interferences will be declared by the Director only upon a showing of
23 extraordinary circumstances which would result in a party being unduly prejudiced without an
24 interference.” Id.

25 Economides claims that the “Applied for Mark interferes with a foreign owner’s mark.” Opp. at
26 ¶ 5. Not only does the Board lack authority to declare an interference, but Economides fails to allege
27 any extraordinary circumstances in support of his claim.

28

1 To the extent Economides intends to rely on alleged common-law rights in the mark OUZO by
2 third party J. Barbayiannis Ouzo Company in support of this incomprehensible claim, Economides’
3 allegations also fail. For interference purposes, a conflict exists whenever “application is made for the
4 registration of a mark which so resembles a mark previously registered by another, or for the registration
5 of which another has previously made application, as to be likely when used on or in connection with
6 the goods or services of the applicant to cause confusion or mistake or to deceive.” T.B.M.P. § 1001
7 (emphases added). However, Economides does not allege that J. Barbayiannis Ouzo Company has a
8 prior U.S. application or registration for OUZO in connection with any type of goods, and does not
9 allege confusion, mistake, or deception in light of such an application or registration.

10 Moreover, “a person should not be heard on a third party’s rights, that is, allowed to sue to
11 vindicate the rights of another.” *Holmes Products Corp. v. Duracraft Corp.*, 1994 TTAB LEXIS 11, 8
12 (T.T.A.B. 1994) (quoting *Jewelers Vigilance Comm., Inc. v. Ullenberg Corp.*, 7 U.S.P.Q.2D 1628, 1631
13 (Fed. Cir. 1988)). Courts have adopted this rule to prevent “a business competitor who used a mark
14 totally different from applicant’s mark,”¹ which is the case here, from “harass[ing] the applicant simply
15 by searching the register and asserting the ground of likelihood of confusion based on any marks it
16 happened to find there.” *Holmes Products*, 1994 TTAB LEXIS at 10. Accordingly, the Board should
17 prevent Economides from abusing Board procedure and wasting Board resources in an attempt to harass
18 Thanco and dismiss Economides’ claims in Paragraph 5 of his Opposition for failure to state a claim.

19 E. National Symbol, Deceptiveness, False Suggestion of a Connection Under 2(a)

20 Under 15 U.S.C. § 1052(a), a trademark may be refused registration if it “consists of or
21 comprises immoral, deceptive, or scandalous matter; or matter which may disparage or falsely suggest a
22 connection with persons, living or dead, institutions, beliefs, or national symbols.” To establish a claim
23 of false suggestion of a connection under Section 2(a), an opposer must allege a connection with itself
24 as a person, organization, or national symbol. See *McDonnell Douglas*, 1985 TTAB LEXIS at 13;
25 *Heroes, Inc. v. The Boomer Esiason Hero’s Foundation, Inc.*, 1997 U.S. Dist. LEXIS 12192, 10-12
26 (D.D.C. 1997).

27
28 ¹ Economides has not alleged that he uses GOT OUZO? or any confusingly similar mark in
connection with his goods and services.

1 Economides makes several allegations under 15 U.S.C. § 1052(a), including false suggestion of
2 a connection and deceptiveness, and further claims that OUZO – not GOT OUZO? – is “a national
3 symbol of Greece and as such cannot be trademarked.” Opp. at ¶ 6. Economides does not claim any
4 association with Greece, however, nor does he allege any connection whatsoever between the mark
5 GOT OUZO? and Greece, and is not entitled to raise a claim that Thanco’s mark falsely suggests a
6 connection with Greece, or with a national symbol of Greece, or is in any way deceptive.

7 F. Geographic Indication

8 Economides also alleges that GOT OUZO? is a “geographic indication which, if used on or in
9 connection with wine or spirits, identifies a place other than the origin of the goods.” Under the
10 Uruguay Round Agreements, “registration of new geographic names for wines and spirits was barred
11 unless the product comes from the place named.” J. Thomas McCarthy, McCarthy on Trademarks and
12 Unfair Competition, §29:36 (4th ed. 2013). Given that the goods identified in the GOT OUZO?
13 applications include “coffee cups, tea cups and mugs” and “t-shirts, sweat shirts, and caps,” not wine or
14 spirits, it is not clear how this claim applies to Thanco’s applications, and Economides fails to allege any
15 connection between Thanco’s applied-for goods and wines and spirits. Therefore Economides fails to
16 state a claim regarding geographic indication.

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1 **CONCLUSION**

2 For the reasons set forth above, the Notice of Opposition is fundamentally legally deficient and
3 accordingly fails to state a claim on which relief may be granted because (1) Opposer lacks standing to
4 maintain this proceeding and (2) Opposer fails to plead any valid grounds for opposition and allege
5 sufficient facts in support thereof. For all of the reasons set forth above, the Notice of Opposition
6 should be dismissed.

7
8 Dated: June 28, 2013

Respectfully submitted,

9 HARVEY SISKIND LLP

10 /Naomi Jane Gray/

11 By: Naomi Jane Gray

12 Four Embarcadero Center, 39th Floor

13 San Francisco, CA 94111

Telephone: (415) 354-0100

14 Facsimile: (415) 391-7124

15 Attorneys for Applicant,

16 Thanco Products & Imports, Inc.

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CERTIFICATE OF TRANSMISSION

I hereby certify that a true and correct copy of the attached MOTION AND MEMORANDUM IN SUPPORT OF APPLICANT’S MOTION TO DISMISS OPPOSER’S NOTICE OF OPPOSITION (Opposition No. 91210863) is being electronically transmitted to the Trademark Trial and Appeal Board on June 28, 2013.

/Naomi Jane Gray/
Naomi Jane Gray

