

ESTTA Tracking number: **ESTTA575251**

Filing date: **12/09/2013**

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	The Committee, Inc. DBA WooHoo!
Granted to Date of previous extension	12/07/2013
Address	4709 Stonewall Rd. Little Rock, AR 72207 UNITED STATES
Attorney information	Gary N. Speed Speed Law Firm 111 Center St., Ste. 1200 Little Rock, AR 72201 UNITED STATES speedlaw@speedlaw.com

Applicant Information

Application No	85929044	Publication date	10/08/2013
Opposition Filing Date	12/09/2013	Opposition Period Ends	12/07/2013
Applicant	Moonlight Mixes LLC 1501 North University St., Suite 207 Little Rock, AR 72205 ARGENTINA		

Goods/Services Affected by Opposition

Class 029. First Use: 2013/03/15 First Use In Commerce: 2013/03/15 All goods and services in the class are opposed, namely: Nut-based snack foods
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l. Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86046007	Application Date	08/23/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	WOOHOO!
Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2008/08/15 First Use In Commerce: 2008/08/15 Nut-based snack foods

Related Proceedings	Trademark Appl. 86046007
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Attachments	86046007#TMSN.jpeg(bytes) Statement of Opposition.pdf(7597 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	/Gary Speed/
Name	Gary N. Speed
Date	12/09/2013

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

IN RE OPPOSITION:

Application: 85929044
Mark: WooHoo!
Respondent: Moonlight Mixes LLC

Opposer: The Committee, Inc.

STATEMENT OF OPPOSITION

Opposer, The Committee, Inc., owner of the mark WooHoo! and Trademark Appl. 86046007 has used the mark in connection with the sale of nut-based snack foods since at least as early as August 15, 2008. Respondent Moonlight Mixes, LLC attempted to acquire the mark and the goodwill appurtenant thereto from Opposer, but negotiations failed. Both firms are located in Little Rock, Arkansas.

Respondent filed Appl. 85929044 with full knowledge of Opposer's continuing ownership and use of the mark in connection with the sale of the nut-based snack foods in Class 29. Respondent copied Opposer's product label, ingredients and UPC code in offering confusingly similar products to consumers.

Accordingly, Opposer requests that Respondent's application be rejected based upon the prior use of the identical mark by Opposer without abandonment, deceptiveness and false suggestion of connection under 15 U.S.C. 1052(a) [Section 2(a) of the Lanham Act], the likelihood of confusion under 15 U.S.C. §1052(d) [Section 2(d)] and on the basis of fraud for copying the Opposer's labeling and failing to disclose material information to the Trademark Office.

THE COMMITTEE, INC.
By Its Attorney:

/Gary Speed/
Gary N. Speed
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