

ESTTA Tracking number: **ESTTA722385**

Filing date: **01/25/2016**

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	SSP Financing UK Limited
Granted to Date of previous extension	01/24/2016
Address	1 THE HEIGHTS, BROOKLANDS, WEYBRIDGE SURREY, KT13 0NY UNITED KINGDOM

Attorney information	Maryann Licciardi Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES jks@cll.com, mel@cll.com, tjb@cll.com, mx@cll.com, trademark@cll.com Phone:212-790-9200
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Applicant Information

Application No	86339358	Publication date	07/28/2015
Opposition Filing Date	01/25/2016	Opposition Period Ends	01/24/2016
Applicant	New York's Upper Crust Pizza Franchising Company 13238 Michael Rainsford Circle Garden Grove, CA 92843 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 2003/12/01 First Use In Commerce: 2003/12/01 All goods and services in the class are opposed, namely: Restaurant services
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Grounds for Opposition

Other	Please see attached pleading.
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Attachments	UPPER CRUST - Notice of Opposition 012516.pdf(348511 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.

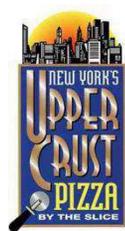
Signature	/Maryann Licciardi/
Name	Maryann Licciardi
Date	01/25/2016

connection with restaurant services and other food and beverage services as well as other goods and services.

3. Since long prior to December 1, 2003, Applicant's claimed first use date, Opposer has extensively advertised and otherwise promoted the sale of its goods and services bearing Opposer's UPPER CRUST Marks and have sold such goods and rendered such services in interstate commerce.

4. Opposer is the owner of federal U.S. Reg. No. 2,112,139 for the standard character mark UPPER CRUST in Class 42 covering `restaurant, food court and take-out food services; providing food and beverages to retail consumers, for consumption on or off the premises, and food court locations_ and U.S. Reg. No. 2,245,310 for the mark UPPER CRUST and Design in Class 42 covering `restaurant, centralized eat-in and take-out food market services; providing food and beverages to retail consumers, for consumption on or off the premises._ Both registrations are incontestable.

5. On or about July 16, 2014, Applicant filed the Application in the United States Patent and Trademark Office, Serial No. 86/339358, for registration on the Principal Register of the mark NEW YORK'S UPPER CRUST PIZZA BY THE SLICE and Design shown here:



(Applicant's Mark_) for `restaurant services_ in International Class 43, claiming a first use date of December 1, 2003.

6. Upon information and belief, Applicant did not use Applicant's Mark in commerce in connection with the services covered by the Application prior to December 1, 2003, its claimed first use date.

7. Upon information and belief, the services for which Applicant seeks to register Applicant's Mark are identical to and/or closely related to the goods and services in connection with which Opposer has used Opposer's UPPER CRUST Marks.

8. Applicant's Mark so resembles Opposer's UPPER CRUST Marks as to be likely, when used in connection with Applicant's services, to cause confusion, to cause mistake and to deceive because the public is likely to believe that Applicant's services have their origin with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

WHEREFORE, Opposer, by its attorneys, respectfully requests that its opposition be sustained and that the registration sought by Applicant be denied.

Please recognize as attorneys for Opposer in this proceeding Joel Karni Schmidt, Maryann Licciardi and Timothy J. Buckley (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Joel Karni Schmidt, Esq. at the address listed below.

Dated: New York, New York
January 25, 2016

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: Joel Karni Schmidt/

Joel Karni Schmidt
Maryann Licciardi
Timothy J. Buckley

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Certificate of Service

A true and complete copy of the foregoing Notice of Opposition was served upon Applicant by sending a copy by First-Class Mail, postage prepaid, addressed to Applicant's Attorney of Record, John C. Kang at 1) Kang Spanos & Moos LLP, 300 Spectrum Center Drive Suite 1090, Irvine, CA 92618; and 2) Kang Spanos & Moos LLP, 120 Vantis Ste. 535, Aliso Viejo, CA 92656-2688, on January 25, 2016.

Dated: New York, New York
January 25, 2016

/Maryann Licciardi/
Maryann Licciardi