

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Butler

Mailed: June 8, 2004

Concurrent Use No. 94002078

I Matti Ristorante, Inc.
(Application Serial No.
76471175)

v.

Campo de Fiori, L.L.C.
(Registration No.
2348945)

To: Anthony S. Cannatella
Pavia & Harcourt
600 Madison Avenue
New York, NY 10022

Re: Campo de Fiori, L.L.C.
Registration No. **2348945**
Issued: May 9, 2000

The applicant in application Serial No. **76471175** has applied for a concurrent use registration for the trademark or service mark set forth below.

Name of applicant	:	I Matti Ristorante, Inc.
Applicant's address	:	205 South Mill Street #109 Aspen, CO 81611
Applicant's mark	:	CAMPO DE FIORI
Goods or services	:	restaurant services; food preparation
Filing date	:	November 29, 2002

Territory of use : the entire United States,
except Massachusetts, New
Hampshire, Maine, Vermont, and
Rhode Island.

Attorney : Richard B. Megley, Jr.
Niro, Scavone, Haller & Niro
181 West Madison Street,
Ste. 4600
Chicago, IL 60602

In its application, the applicant has recited as an exception to its allegation of exclusive use of said mark, use by Campo de Fiori, L.L.C. ("your," *infra*) of an identical or very similar mark. Your mark, goods or services, and territory of use, as *acknowledged* in the referenced application, are set out below in a summary of details of the application. A copy of the application as filed is included herewith.

Your mark : CAMPO DI FIORI

Your goods or services : restaurant, catering and take
out restaurant services

Your territory of use : Cambridge, Massachusetts.

Since the Office has determined that applicant's mark appears entitled to registration, subject to a concurrent use proceeding with you, a concurrent use proceeding is hereby instituted under the provisions of Section 2(d) of the Trademark Act of 1946.

The proceeding will be conducted in accordance with the Rules of Practice in Trademark cases, as set out in Title 37 of the Code of Federal Regulations. Rule 2.99 thereof, under which this notice is given, provides that:

An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified as a concurrent user in the application, but a statement, if desired, may be filed within forty days after the mailing of the notice; in the case of any other party specified as a concurrent user in the application, an answer must be filed within forty day after the mailing of the notice.

You are allowed until **July 18, 2004** to file an answer in accordance with Rule 2.99. If filed, the answer should be directed to the allegations relating to concurrent use recited in the application identified herein.

You are also requested to advise the Board of any relevant applications or registrations, other than those already listed herein, which should be included in this concurrent use proceeding. Your response, if any, should be in writing and should be filed on or before July 18, 2004.

**DISCOVERY AND TESTIMONY PERIODS ARE SET AS
INDICATED BELOW.**

IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party WITHIN THIRTY DAYS after completion of the taking of testimony. Rule 2.125.

Discovery to open:	June 28, 2004
Discovery to close:	December 25, 2004
Testimony period for party in position of plaintiff to close: (opening thirty days prior thereto)	March 25, 2005
Testimony period for party in position of defendant to close: (opening thirty days prior thereto)	May 24, 2005
Rebuttal testimony period to close: (opening fifteen days prior thereto)	July 8, 2005

Briefs shall be filed in accordance with Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Rule 2.129.

The Board recognizes the withdrawal in accordance with settlement in Cancellation No. 92041388 involving Registration No. 2348945 wherein I Matti Ristorante, Inc. is petitioner and Campo de Fiori, L.L.C. is respondent. The parties are invited to submit for consideration by the Board a copy of any settlement agreement that may amicably resolve this present concurrent use proceeding.