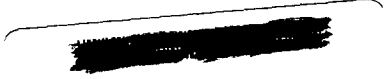


TTAB

T/3869-15

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

-----X
 The B. Manischewitz Company, LLC :
 :
 Opposer, :
 :
 v. :
 :
 Four Seasons Fruit Soup, Corp. :
 :
 Applicant. :
 :
 -----X



04-17-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #61

Opposition No.
Serial No.: 76/144,393
TM: FOUR SEASONS FRUIT SOUP

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

BOX TTAB

NOTICE OF OPPOSITION

SIR:

In the matter of pending application Serial No. 76/144,393 filed October 12, 2000 by Four Seasons Fruit Soup, Corp. of Galloway, Ohio for the mark FOUR SEASONS FRUIT SOUP, published in the Official Gazette of December 25, 2001 at TM 429, The B. Manischewitz Company, LLC believes that it will be damaged by the registration of the above mark and hereby gives notice of its intention to oppose the above application for registration, its grounds for opposition being as follows:

1. Opposer is a limited liability company organized under the laws of Delaware located and doing business at One Manischewitz Plaza, Jersey City, New Jersey 07302.

04/23/2002 TSMITH 00000009 76144393

01 FC:377 300.00 OP

2. For many years opposer and its predecessors have used the trademark SEASON in interstate commerce for a line of food products.
3. Opposer's mark SEASON was first used in connection with sardines in the year 1921 and such use has been continuous since that time to the present time.
4. Opposer is the owner of U.S. Registration No. 156,864 issued July 18, 1922 for the mark SEASON and Design for smoked sardines. This registration is valid and subsisting and in full force and effect. Annexed hereto and made a part hereof and marked opposer's Exhibit 1 is a copy of said registration.
5. Opposer is the owner of U.S. Registration No. 282, 739 issued April 28, 1931 for the mark SEASON and Design for food products which include fruits and vegetables, among other goods. This registration is valid and subsisting and in full force and effect. Annexed hereto and made a part hereof and marked opposer's Exhibit 2 is a copy of said registration.
6. Opposer is the owner of pending application Serial No. 76/088,485 filed July 13, 2000 for the mark SEASON for a line of food products. Annexed hereto and made apart hereof are marked opposer's Exhibit 3 is a copy of said application.
7. By reason of extensive sales and distribution of opposer's food products bearing the mark SEASON for more that 75 years, this trademark has acquired substantial goodwill, distinctiveness and secondary meaning as indicating a line of food products having its origin exclusively with opposer.
8. Applicant seeks registration for the mark FOUR SEASONS FRUIT SOUP for soups. Applicant's goods are sufficiently related to opposer's goods such that a likelihood of confusion will exist if the respective products are sold under the same or confusingly similar marks.
9. Applicant's mark FOUR SEASONS FRUIT SOUP, which is dominated by FOUR SEASONS, is confusingly and deceptively similar to opposer's mark which is contained therein as it is phonetically and visually similar to opposer's mark and similar in meaning as well to opposer's mark SEASON.
10. The use and registration of applicant's mark for its goods will create confusion, mistake and deception as to the origin of applicant's goods and will cause the

trade and public to believe that applicant's goods originate with or are otherwise sponsored, licensed or authorized by opposer.

11. The use and registration of FOUR SEASONS FRUIT SOUP to applicant for soups will dilute the distinctiveness of opposer's well known trademark SEASON resulting in a lessening and diversion of opposer's goodwill to applicant.
12. By reason of all the foregoing, opposer will be gravely damaged by the registration of FOUR SEASONS FRUIT SOUP to applicant.

WHEREFORE, opposer respectfully requests that the Notice of Opposition be sustained and that the registration of FOUR SEASONS FRUIT SOUP be refused to applicant.

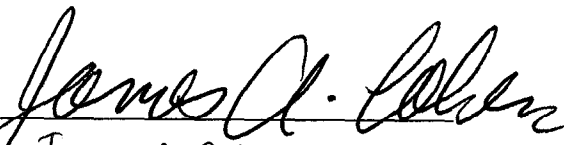
POWER OF ATTORNEY

Please recognize Martin J. Beran and Ostrolenk, Faber, Gerb & Soffen, LLP as attorneys to prosecute this opposition proceeding. The undersigned hereby appoints customer no. 2352, OSTROLENK, FABER, GERB & SOFFEN, LLP and the members of the firm: Samuel H. Weiner, Robert C. Faber, Max Moskowitz, James A. Finder, William O. Gray, III, Louis C. Dujmich, Charles P. LaPolla, Douglas A. Miro, and Marc A. Lieberstein, and of counsel Martin J. Beran, all members of the Bar of the State of New York, with offices at 1180 Avenue of the Americas, New York, New York 10036-8403, (212) 382-0700, its attorneys to prosecute this application with full power of substitution and revocation and to transact all business in the Patent and Trademark Office in connection therewith. Said attorneys are hereby designated its agent upon whom notices or process may be served in proceedings affecting the above-entitled mark. Please address all correspondence to:

Martin J. Beran, Esq.
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Customer No. 2352

The B. Manischewitz Company, LLC

Dated: April 16, 2002
New York, New York

By: 
Name James A. Cohen
Title Senior Vice President - Legal Affairs

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 04/11/2002 15:09:40 ET

Serial Number: 71156783

Registration Number: 156864

Mark



(words only): SEASON

Current Status: Registered.

Date of Status: 1982-11-23

Filing Date: 1921-12-16

Registration Date: 1922-07-18

Law Office Assigned: Unknown

CURRENT APPLICANT(S)/OWNER(S)

1. I. Epstein & Sons, Inc.

Address:

I. Epstein & Sons, Inc.
Irvington, NJ
United States

State or Country of Incorporation: New Jersey

Legal Entity Type: Corporation

GOODS AND/OR SERVICES

Food Products-viz. Smoked Sardines

U.S. Class: 046 (International Class 029)

First Use Date: 19210902

First Use in Commerce Date: 19210902

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

1982-07-18 - Registration renewed - 20 year

1982-07-18 - Registration renewed - 20 year

CONTACT INFORMATION

(NOT AVAILABLE)

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 04/11/2002 15:10:15 ET

Serial Number: 71277291

Registration Number: 282739

Mark



(words only): SEASON

Current Status: This registration has been renewed.

Date of Status: 2002-01-12

Filing Date: 1928-12-28

Registration Date: 1931-04-28

Law Office Assigned: (NOT AVAILABLE)

CURRENT APPLICANT(S)/OWNER(S)

1. THE B. MANISCHEWITZ COMPANY, LLC

Address:

THE B. MANISCHEWITZ COMPANY, LLC
ONE MANISCHEWITZ PLAZA
JERSEY CITY, NJ 07302
United States

State or Country Where Organized: Delaware

Legal Entity Type: Unknown

GOODS AND/OR SERVICES

CANNED APRICOTS, GOLDEN BANTAM CORN, HAWAIIAN PINEAPPLE, SPINACH, SWEET PEAS, BARTLETT PEARS, ROYAL ANNE CHERRIES, FRUITS FOR SALADS, FRESH PRUNES, STRINGLESS BEANS, CORN, SAUERKRAUT, SUGAR CORN, AND YELLOW CLING PEACHES; DRIED PEAS, LENTILS IN PACKAGES, DRIED BEANS IN PACKAGES, CANNED CALIFORNIA SARDINES, CANNED SALMON, CANNED TUNA FISH

U.S. Class: 046 (International Class 029)

First Use Date: 19260520

First Use in Commerce Date: 19260520

Basis: 1(a)

ADDITIONAL INFORMATION

Prior Registration Number(s):

156864

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 04/11/2002 15:13:08 ET

Serial Number: 76088485

Registration Number: (NOT AVAILABLE)

Mark (words only): SEASON

Current Status: Application has been published for opposition.

Date of Status: 2002-03-12

Filing Date: 2000-07-13

The Information will be/was published in the Official Gazette on 2002-03-12

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMO Law Office 111

CURRENT APPLICANT(S)/OWNER(S)

I. B. Manischewitz Company, LLC, The

Address:

B. Manischewitz Company, LLC, The

One Manischewitz Plaza

Jersey City, NJ 07302

United States

State or Country Where Organized: Delaware

Legal Entity Type: Other

GOODS AND/OR SERVICES

Processed garlic cloves; anchovies; anchovy paste; caviar; fish for food purposes, namely, tuna fish, sardines, mackerel, kipper snacks, and salmon; prepared meals consisting primarily of fish, namely, fish rolls, fish rolls with almonds and/or raisins, fish roll with lemon dill, fish roll with salmon

International Class: 029

First Use Date: 19210902

First Use in Commerce Date: 19210902

Basis: 1(a)

Chow mein noodles, duck sauce, soy sauce, teriyaki sauce, tamari sauce, capers, peppercorns; prepared meals consisting primarily of pasta, namely, manicotti with cheese, stuffed shells, cavatelli with ricotta, cheese ravioli, potato gnocchi, tortellini with cheese and smoked salmon

International Class: 030

First Use Date: 19940100

First Use in Commerce Date: 19940100

Basis: 1(a)

ADDITIONAL INFORMATION

Prior Registration Number(s):

156864

282739

PROSECUTION HISTORY

2002-03-12 - Published for opposition

2002-02-20 - Notice of publication

2001-10-30 - Approved for Pub - Principal Register (Initial exam)

2001-10-29 - Examiner's amendment mailed

2001-06-29 - Communication received from applicant

2001-01-02 - Non-final action mailed

2000-12-20 - Case file assigned to examining attorney

CONTACT INFORMATION

Correspondent (Owner)

Martin J. Beran (Attorney of record)

MARTIN J BERAN

OSTROLENK FABER GERB & SOFFEN LLP

1180 AVENUE OF THE AMERICAS

NEW YORK NEW YORK 10036

United States

OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 AVENUE OF THE AMERICAS, NEW YORK, NEW YORK 10036-8403

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email@ostrolenk.com

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MARTIN J. BERAN
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WASHINGTON OFFICE

1725 K STREET, N. W.
WASHINGTON, D.C. 20006
TEL 202 457 7785
FAX 202 429 8919

April 17, 2002

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513
ATTN: BOX TTAB FEE

Re: OFGS File No. 7/3869-15
U.S. Trademark/Service Mark Appln. No. 75/144,393
Applicant: Four Seasons Fruit Soup, Corp.
Mark: FOUR SEASONS FRUIT SOUP
Published: December 25, 2001 at TM 429

S I R:

Enclosed for filing is a Notice of Opposition on behalf of: The B. Manischewitz Company, LLC.
against the above-noted trademark/service mark, including:

- Notice of Opposition, in duplicate;
- OFGS Check No. 9147 in the amount of \$300.00
in payment of the Government Filing Fee;
- Return-Addressed Post Card.

In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee due during the pendency of this application is not paid, the P.T. O. is authorized to charge the underpayment to Deposit Account No. 15-0700.

EXPRESS MAIL CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail to Addressee (mail label # EL 613105862US) in an envelope addressed to: Asst. Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on April 17, 2002
Dorothy Jenkins

Name of Person Mailing Correspondence

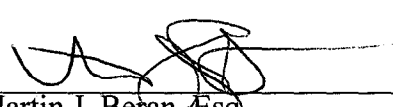
Dorothy Jenkins

Signature

April 17, 2002

Date of Signature

Respectfully submitted,


Martin J. Beran, Esq.
Attorneys for Opposer
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, N.Y. 10036-8403
Telephone: (212) 382-0700

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TRADemark OFFICE
WASHINGTON, DC