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

U.S. Patent & TMO/c/TM Mail Rcpt. Dt. #57
08-12-2002

HEATH VALLEY COMPANY,
:
Opposer,
:
-vs-
:
ARCOR S.A.I.C.
:
Applicant.
:

NOTICE OF OPPOSITION

02 AUG 30 PM 8:40
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of the application of Arcor S.A.I.C. ("Applicant" or "Arcor"), for the registration of "CABSHA," Application No. 76/292,742, published in the Official Gazette of July 16, 2002, at TM 744, Health Valley Company, a corporation of the State of Delaware with its principal place of business at 16100 Foothill Boulevard, Irwindale, California 91706 ("Health Valley" or "Opposer"), believes that it would be damaged by the registration of the mark shown in the application and hereby opposes same under the provisions of Section 13 of the Trademark Act of July 5, 1946 (15 U.S.C. § 1063). The grounds for the opposition are:

1. Opposer is a corporation that has been engaged in the manufacture and sale of foods and beverages for sale in the United States for nearly twenty-eight years.
2. Health Valley owns U.S. Registration No. 1,302,879 for the CASBAH mark (the "CASBAH Mark") for prepackaged foods; namely, falafel mix, hummus mix, tabouly, tahini

dip and dressing, in Class 29, and couscous pilaf mix, in Class 30 ("Opposer's Goods"). This registration, which was granted on October 30, 1984, is now incontestable. A certified status copy of U.S. Registration No. 1,302,879 is annexed hereto as Exhibit A.

3. By reason of the extensive promotion, advertising, and provision of high-quality products manufactured and distributed by Opposer in conjunction with the CASBAH Mark, since at least as early as December 2, 1982, the CASBAH Mark has become famous, and the public and the trade have come to recognize products offered in conjunction with this mark as signifying Health Valley and the Opposer's Goods.

4. There is no issue as to priority. The Applicant's intent to use filing date for the CABSHA application, July 30, 2001, was long after the dates when Health Valley first used or registered its CASBAH Mark.

5. Notwithstanding Health Valley's long prior rights in the CASBAH Mark, Arcor has filed an application, Serial No. 76/292,742, for registration of CABSHA (the "Applicant's Mark") for chocolate, chocolate bars, chocolate covered nuts, chocolate candies, chocolate coated cookies, wafers, coated sandwich cookies, cookies, bonbons, in Class 30. This mark was published for opposition in the Official Gazette of July 16, 2002, at TM 744.

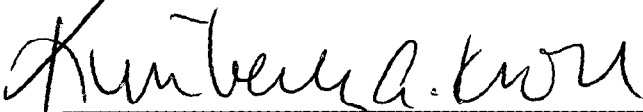
6. The trademark proposed for registration by the Applicant, CABSHA, is nearly identical to Opposer's CASBAH Mark, and is applied to goods related to those of Opposer. The Applicant's mark so closely resembles the Opposer's CASBAH Mark as to be likely to be confused therewith and mistaken therefor. Applicant's CABSHA mark is deceptively similar to Opposer's CASBAH Mark so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing the Applicant's mark, and/or to dilute and/or tarnish the goodwill in and distinctive nature of Opposer's CASBAH Mark.

CERTIFICATE OF EXPRESS MAIL UNDER 37 CFR 1.10

"Express Mail" mailing label number: EV146904901US

Date of Deposit: August 12, 2002

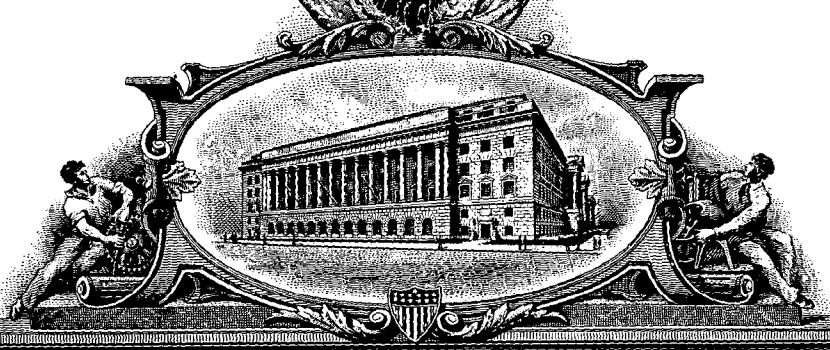
I hereby certify that the original and two copies of the foregoing Notice of Opposition to Application Serial No. 76/292,742, along with authorization to access our deposit account in the amount of \$300.00 to cover the filing fee, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under CFR 1.10 on the date indicated above, addressed to: BOX TTAB - Fee, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, V.A. 22202-3513.



Kimberly A. Knoll

Date: August 12, 2002

877586



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

August 06, 2002

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,302,879 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *October 30, 1984*
SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

HEALTH VALLEY COMPANY
A DE CORP



By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

E. BORNETT
Certifying Officer

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,302,879

Registered Oct. 30, 1984

TRADEMARK
Principal Register

CASBAH

Sahara Natural Foods, Inc. (California corporation)
6930 Buckingham Blvd.
Berkeley, Calif. 94705

For: PRE PACKED FOODS—NAMELY,
FALAFEL MIX, HUMMUS MIX, TABOULY,
TAHINI DIP AND DRESSING, in CLASS 29
(U.S. Cl. 46).

First use Dec. 2, 1982; in commerce Dec. 29, 1982.

For: COUSCOUS PILAF MIX, in CLASS 30
(U.S. Cl. 46).

First use Dec. 2, 1982; in commerce Dec. 29, 1982.

The word "Casbah" is a foreign word. The word
is defined as a North African castle or fortress or the
native section of a North African city.

Ser. No. 409,217, filed Jan. 13, 1983.

RICHARD A. STRASER, Examining Attorney

U.S. Patent & TMOs/TM Mail Rcpt. Dt. #57



08-12-2002

MCCARTER & ENGLISH, LLP

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NEW YORK
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WILMINGTON

CHERRY HILL
HARTFORD
BALTIMORE

August 12, 2002

VIA EXPRESS MAIL

Re: Opposition to Trademark Application for CABSHA,
Serial No. 76/292,742

TRADEMARK TRIAL AND
APPEAL BOARD
02 AUG 30 PM 8:44

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

Dear Sir or Madam:

We enclose an original and two (2) copies of a Notice of Opposition and Certificate of Express Mailing on behalf of Opposer, Health Valley Company for use in connection with opposition to the CABSHA trademark registration application:

Please charge our Deposit Account, No. 501402, the required \$300.00 filing fee for this opposition and any other fees that are required for this matter.

Kindly indicate receipt of this Notice of Opposition by stamping the enclosed pre-paid postage postcard, and return it to us.

Thank you for your consideration.

Very truly yours,

Robert W. Smith

RWS:kk
Enclosures