

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

In the Matter of Application Serial No. 76/488157  
Published in the Official Gazette of September 23, 2003

Fike's Dairy, Inc. )  
 )  
Opposer, )  
 )  
v. )  
 )  
Daisy Brand, Inc. )  
 )  
Applicant. )

NOTICE OF OPPOSITION



02-23-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

02/25/2004 SWILSON1 00000184 76488157

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300.00 OP

Opposer, Fike's Dairy, Inc., a Pennsylvania corporation, located and doing business at P.O. Box 1247, 47 West Craig Street, Uniontown, PA 15401, believes that it will be damaged by the registration of the trademark DAISY as shown in the above identified application and, having sought an extension of time to oppose, hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Opposer is and for years has been engaged in the business of the manufacture and production of dairy products.
2. In or about January 1950, a date long prior to the filing date of the application here opposed, opposer adopted and began to use DAISY LANE as a trademark and trade

name in connection with the manufacture, production and sale of ice cream products, which are distributed and sold in the United States. Opposer first used the DAISY LANE trademark and trade name in interstate commerce in June 1952.

3. The trademark and trade name DAISY LANE has been continuously used since its adoption and first use and has come to represent a business and goodwill of tremendous value to opposer.

4. Sales of DAISY LANE ice cream products have exceeded \$500,000 per year in each of the last two years, with over 200,000 gallons of DAISY LANE ice cream products being sold each year. Through extensive sales and advertising of ice cream products bearing the DAISY LANE trademark, said trademark has become a very well-known indication of source and serves to identify to the public and the trade the ice cream products emanating from opposer exclusively.

5. Opposer is the owner of all right, title and interest in and to United States Trademark Registration No. 1,568,688 [DAISY LANE], which is valid and subsisting. A copy of the certificate for said registration is attached hereto as Exhibit 1.

6. By the application here opposed, applicant seeks to register DAISY as a trademark for use for dairy products, namely sour cream and cottage cheese in International Class #29. Applicant filed the trademark application here opposed based on its future intention to use the trademark in commerce. Upon information and belief, applicant has not as of yet used DAISY as a trademark for its sour cream and/or cottage cheese products.

7. Applicant's trademark DAISY so resembles opposer's trademark and trade name DAISY LANE as to be likely, if used by applicant in connection with applicant's

goods, to cause confusion and mistake and to deceive the trade and public into believing that DAISY sour cream and cottage cheese products are from the same source as DAISY LANE ice cream products, emanate from opposer, or are otherwise authorized, sponsored, endorsed, or licensed by opposer.

8. Opposer will be damaged by the registration sought by applicant because such registration will support and assist applicant in its confusing and misleading use of applicant's mark upon which a registration is sought, and will give color of exclusive statutory rights in applicant in violation and derogation of the prior and superior rights of opposer in the trademark and trade name DAISY LANE.

WHEREFORE, opposer prays that this opposition be sustained and that the application for registration of the mark DAISY be in all respects denied.

Please recognize as attorneys for opposer in the proceeding Scott A. Schleifstein and Martin J. Cohen who are admitted to practice before the courts of the State of New York and are practicing with the firm Cohen Silverman Rowan LLP, 360 Lexington Avenue, New York, NY 10017.

Dated: New York, NY  
February 18, 2004

FIKE'S DAIRY, INC.

By: 

Scott A. Schleifstein  
Attorney for Opposer  
Cohen Silverman Rowan LLP  
360 Lexington Avenue  
New York, NY 10017  
(212) 986-8282

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 on February 18, 2004.

  
Scott A. Schleifstein

Int. Cl.: 30

EXHIBIT 1

Prior U.S. Cl.: 46

Reg. No. 1,568,688

United States Patent and Trademark Office

Registered Nov. 28, 1989

10 Year Renewal

Renewal Term Begins Nov. 28, 1999

**TRADEMARK  
PRINCIPAL REGISTER**

**DAISY LANE**

R. BRUCE FIKE AND SONS DAIRY,  
INC. (PENNSYLVANIA CORPORATION)  
P.O. BOX 1247  
UNIONTOWN, PA 15401, DBA FIKE'S  
DAIRY, INC., DBA FIKE'S DAIRY,  
INC.,

FOR: ICE CREAM, IN CLASS 30 (U.S.  
CL. 46).

FIRST USE 1-0-1950; IN COMMERCE  
6-0-1952.

SER. NO. 73-791,062, FILED 4-3-1989.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Nov. 2, 1999.*

COMMISSIONER OF PATENTS AND TRADEMARKS

ttab

LAW OFFICES

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\*\*CO, OR, IA, WI BARS ONLY

February 18, 2004

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514



ATTN: Trademark Trial and Appeal Board

02-23-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Re: Serial No. 76/488157, Filed: February 7, 2003  
("DAISY")


Dear Sir or Madam:

Please find enclosed a Notice of Opposition, filed in duplicate, relative to the referenced trademark application, and our check for \$300, representing the filing fee.

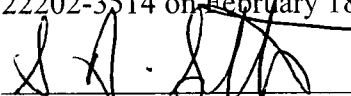
Kindly send all correspondence to the following address:

Scott A. Schleifstein, Esq.  
Cohen Silverman Rowan LLP  
360 Lexington Avenue  
New York, NY 10017

Thank you for your consideration.

Sincerely,  
  
Scott A. Schleifstein  
Attorney for Opposer

I hereby certify that this correspondence is  
Being deposited with the United States Postal  
Service as first class mail, postage prepaid,  
Addressed to Commissioner for  
Trademarks, 2900 Crystal Drive, Arlington, VA  
22202-3514 on February 18, 2004.

  
Scott A. Schleifstein