

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

**TTAB**

R. TORRE & COMPANY,	)	
	)	
Opposer,	)	Opposition No.: 91165557
	)	
v.	)	Application Serial Nos.: 78/412,815
	)	78/412,818
THE DANNON COMPANY, INC.,	)	
	)	
Applicant.	)	Mark: FRUSION & Design
	)	

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Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**COMMUNICATION REGARDING  
AN INADVERTENTLY ISSUED REGISTRATION**

This is a communication to bring to the attention of the Board the inadvertent registration of U.S. Trademark Application Serial No. 78/412,818, which is a subject of the above-identified opposition.

On June 15, 2005, Opposer timely filed a Notice of Opposition opposing U.S. Trademark Application Serial Nos. 78/412,815 and 78/412,818 for the Mark FRUSION & Design. Copies of the electronic receipts acknowledging receipt of the Notice of Opposition by the U.S. Patent and Trademark Office are enclosed with this Communication.



11-14-2005

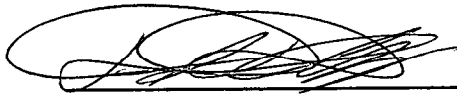
U.S. Patent & TMOft/TM Mail RcptDt. #64

U.S. Trademark Application Serial No. 78/412,818 issued on October 18, 2005 as U.S. Trademark Registration No. 3,007,439. Accordingly, Opposer submits that the registration was inadvertently issued, and requests that U.S. Trademark Registration No. 3,007,439 be cancelled and restored to application status so that the opposition may be resumed.

DATED this 9<sup>th</sup> day of November, 2005.

Respectfully submitted,

KOLISCH HARTWELL, P.C.



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David S. D'Ascenzo  
Registration No. 39,952  
Of Attorneys for Opposer  
Kolisch Hartwell, P.C.  
520 S.W. Yamhill Street, Suite 200  
Portland, Oregon 97204  
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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence and the attached copies of electronic receipts are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, Virginia 22313-1451 on November 9, 2005.



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David S. D'Ascenzo



United States Patent and Trademark Office

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Your submission has been received by the USPTO.  
The content of your submission is listed below.  
You may print a copy of this receipt for your records.

ESTTA Tracking number: **ESTTA35866**Filing date: **06/15/2005**

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**

<b>Name</b>	R. Torre & Company
<b>Granted to Date of previous extension</b>	06/15/2005
<b>Address</b>	233 E. Harris Avenue South San Francisco, CA 94080 UNITED STATES

<b>Attorney information</b>	David S. D'Ascenzo Kolisch Hartwell, P.C. 520 S.W. Yamhill Street, Suite 200 Portland, OR 97204 UNITED STATES david@khpatent.com Phone:503-224-6655
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**Applicant Information**

<b>Application No</b>	78412815	<b>Publication date</b>	02/15/2005
<b>Opposition Filing Date</b>	06/15/2005	<b>Opposition Period Ends</b>	06/15/2005

<b>Applicant</b>	The Dannon Company, Inc. 120 White Plains Road Tarrytown, NY 10591 UNITED STATES
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**Goods/Services Affected by Opposition**

Class 029. First Use: 2001/01/30 First Use In Commerce: 2001/01/30 All goods and services in the class are opposed, namely: Yogurt, yogurt based-beverages
Class 032. First Use: 2001/01/30 First Use In Commerce: 2001/01/30 All goods and services in the class are opposed, namely: Beverages, namely, fruit-based beverages with yogurt

**Applicant Information**

<b>Application No</b>	78412818	<b>Publication date</b>	04/05/2005
<b>Opposition Filing Date</b>	06/15/2005	<b>Opposition Period Ends</b>	
<b>Applicant</b>	The Dannon Company, Inc. 120 White Plains Road Tarrytown, NY 10591 UNITED STATES		

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<b>Attachments</b>	Notice of Opposition 6-15-05.pdf ( 3 pages )(124457 bytes )
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<b>Signature</b>	/David S. D'Ascenzo/
<b>Name</b>	David S. D'Ascenzo
<b>Date</b>	06/15/2005

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Sent: Wednesday, June 15, 2005 3:33 PM

To: David D'Ascenzo

Subject: ESTTA. Notice of Opposition. confirmation receipt ID: ESTTA35866

Notice of Opposition.

Tracking No: ESTTA35866

#### ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS Filing Receipt

We have received your Notice of Opposition. submitted through the Trademark Trial and Appeal Board's ESTTA electronic filing system.

This is the only receipt which will be sent for this paper. If the Board later determines that your submission is inappropriate and should not have been accepted through ESTTA, you will receive notification and appropriate action will be taken.

Please note:

Unless your submission fails to meet the minimum legal requirements for filing, the Board will not cancel the filing or refund any fee paid.

If you have a technical question, comment or concern about your ESTTA submission, call (703) 308-9300 during business hours or e-mail at [estta@uspto.gov](mailto:estta@uspto.gov).

The status of any Board proceeding may be checked using TTABVUE which is available at <http://ttabvue.uspto.gov> Complete information on Board proceedings is not available through the TESS or TARR databases. Please allow a minimum of 2 business days for TTABVUE to be updated with information on your submission.

The Board will consider and take appropriate action on your filing in due course.

Printable version of your request is attached to this e-mail

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ESTTA server at <http://estta.uspto.gov>

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APPEAL BOARD

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Address: 233 E. Harris Avenue  
South San Francisco, CA 94080  
UNITED STATES

Attorney information:  
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Portland, OR 97204  
UNITED STATES  
david@khpatent.com Phone:503-224-6655

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David S. D'Ascenzo  
/David S. D'Ascenzo/  
06/15/2005