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Filing date: **01/24/2006**

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

Proceeding	91168147
Party	Defendant PASTARITO S.r.l. PASTARITO S.r.l. Via Nobel, 19 I-42100 REGGIO EMILIA ITX ,
Correspondence Address	COLLI ALFONSO c/o BUGNION S.P.A. Via Paolo Borsellino, 22 I-42100 REGGIO EMILIA ITALY,
Submission	Answer
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Date	01/24/2006
Attachments	pastaritoans.pdf ( 3 pages )

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

SHAKEY'S RESTAURANTS	:	
FRANCHISING COMPANY, LLC	:	
	:	
Opposer	:	
	:	Opposition No. 91168147
v.	:	
	:	
PASTARITO S.R.L.	:	
	:	
Applicant	:	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Pastarito S.r.l. hereby answers the notice of opposition in the above referenced opposition proceeding as follows:

1. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 1 and therefore denies the allegations.

2. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 2 and therefore denies the allegations.

3. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 3 and therefore denies the allegations.

4. Applicant admits that it has filed an application with the United States Patent and Trademark Office to register the mark PIZZARITO & Design for “coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour; bakery products and preparations made from cereals, namely, bread, cakes and pastries, pizzas, frozen pizzas, flat cakes, cooked and frozen cakes, pasta, flour based chips; confectionery, namely, mille-feuille, marengo, cakes, profiterole and trifle; ice creams; honey, molasses syrup, yeast baking powder, salt, mustard, vinegar, sauces (condiments); spices(condiments), namely,

Bolognese sauce, tomato sauce, meat sauce, basil and garlic sauce; ice” in Int. Class 30; “advertising, business management, and franchising, namely, offering technical assistance in the establishment and operation of restaurants”, in Int. Class 35; “coffee shops, snack bars, pizza restaurants, cafeterias; and catering”, in Int. Class 43.

5. Applicant is without sufficient knowledge to form a belief as to the truth of the allegation that Opposer is using the alleged mark and as to the other allegations contained in Paragraph 5 and, therefore, denies the allegations.

6. Applicant is without sufficient knowledge to form a belief as to the truth of the allegation that Opposer is using the alleged mark and as to the other allegations contained in Paragraph 6 and, therefore, denies the allegations.

7. Applicant admits that Opposer has not endorsed, approved or associated itself with Applicant to use the mark PIZZARITO. Applicant is without sufficient knowledge to form a belief as to the truth of the other allegations contained in Paragraph 7 and therefore denies the allegations.

8. Applicant denies the allegations in Paragraph 8.

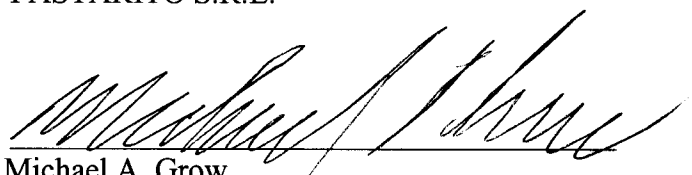
#### **AFFIRMATIVE DEFENSES**

1. The Notice of Opposition fails to state a claim on which relief may be granted.
2. The Opposition is barred by the fact that Opposer lacks standing through non-use or through a course of conduct that cause the alleged mark to lose any distinctiveness it ever had as an indicator of origin.
3. The opposition is barred by the fact that Opposer has abandoned any rights it might ever have claimed in the word PIZZARITO.

In view of the foregoing, Applicant requests that the notice of opposition be dismissed.

PASTARITO S.R.L.

By:



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### CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing has been served on Opposer's counsel Michael K. Grace and Jill M. Abasto, 444 S. Flower St., Suite 3875, Los Angeles, California 90071, marked first class mail postage prepaid, on January 24, 2006.

