

ESTTA Tracking number: **ESTTA168610**

Filing date: **10/15/2007**

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

Name	Emeril's Food of Love Productions, LLC
Granted to Date of previous extension	10/14/2007
Address	829 St. Charles Avenue New Orleans, LA 70130 UNITED STATES
Attorney information	Deborah K. Squiers Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES dks@cll.com, trademark@cll.com Phone:212-790-9200

Applicant Information

Application No	78763708	Publication date	04/17/2007
Opposition Filing Date	10/15/2007	Opposition Period Ends	10/14/2007
Applicant	RECKITT BENCKISER INC. 399 INTERPACE PARKWAY PARSIPPANY, NJ 070540225 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2005/03/14 First Use In Commerce: 2005/03/14 All goods and services in the class are opposed, namely: General purpose cleaning, polishing, scouring and abrasive preparations, decalcifying and descaling preparations for household purposes; limescale removers, rust removers for household use, stain removers, grease removers; drain and sink unblocking preparations; preparation for prevention of limescale, rust or grease

Grounds for Opposition

Other	Please see attached pleading.
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Attachments	Notice of Opposition BAM & Design.PDF (5 pages)(38389 bytes)
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Signature	/Deborah K. Squiers/
Name	Deborah K. Squiers
Date	10/15/2007

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

In the Matter of Application Serial No. 78/763,708
Published in the Official Gazette of April 17, 2007

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EMERIL'S FOOD OF LOVE	:	
PRODUCTIONS, LLC,	:	
	:	
Opposer,	:	Opposition No.
	:	
v.	:	
	:	
RECKITT BENCKISER INC.,	:	
	:	
Applicant.	:	
-----X		

NOTICE OF OPPOSITION

EMERIL'S FOOD OF LOVE PRODUCTIONS, LLC ("Opposer"), by its attorneys,
as and for its Notice of Opposition against RECKITT BENCKISER INC. ("Applicant"),
alleges as follows:

1. Opposer is a Louisiana limited liability company with a place of business at 829 St. Charles Avenue, New Orleans, LA 70130.
2. Upon information and belief, Applicant is a Delaware corporation with a place of business at 399 Interpace Parkway, Parsippany, NJ 07054-0225.
3. Since prior to March 14, 2005, Applicant's claimed first use date, Opposer, through its renowned chef Emeril Lagasse, its affiliates and/or its licensees, has used the mark BAM, alone and/or with other words, symbols or designs, including but not limited to a

radiating star design (“Opposer’s BAM Marks”) in connection with cooking and food demonstration services and a wide variety of goods including, but not limited to, food, apparel, cookware, cooking accessories and printed matter.

4. Opposer is the owner of the following federal registrations and pending federal application on the Principal Register for Opposer’s BAM Marks, as well as the goodwill attached to the marks:

<u>Mark</u>	<u>Ser. No.</u>	<u>Products and Services</u>
BAM!	2,951,944	Cookware, namely, frying pans, skillets, sauté pans, sauce pans, casseroles, steamer inserts, stock pots, sheet pans, and bake pans in International Class 21
BAM!	2,951,943	Cooking utensils, namely, spatulas, tongs, mixing spoons, basting spoons and pronged forks in International Class 21
BAM! ON THE BEACH	3,172,793	Cooking demonstrations, wine and food tastings in International Class 41
BAM	77/299,597	Food and sauces for food in International Class 29; Seasonings, spices and coffee in International Class 30; and Television shows about cooking in International Class 41.

5. As a result of the sales and promotion of its goods and services bearing Opposer’s BAM Marks and the use of Opposer’s BAM Marks by the press, media, fans and public to refer to Opposer’s goods and services, Opposer has built up a highly valuable goodwill in Opposer’s BAM Marks.

6. Upon information and belief, on November 30, 2005, Applicant filed an application, Serial No. 78/763,708, for the mark BAM & Design (“Applicant’s BAM & Design Mark”) for “General purpose cleaning, polishing, scouring and abrasive preparations, decalcifying and descaling preparations for household purposes; limescale removers, rust removers for household use, stain removers, grease removers; drain and sink unblocking preparations; preparation for prevention of limescale, rust or grease” in International Class 3.

7. Upon information and belief, Applicant did not use Applicant’s BAM & Design Mark on or in connection with “general purpose cleaning, polishing, scouring and abrasive preparations, decalcifying and descaling preparations for household purposes; limescale removers, rust removers for household use, stain removers, grease removers; drain and sink unblocking preparations; preparation for prevention of limescale, rust or grease” in commerce prior to March 14, 2005.

8. Upon information and believe, Applicant’s has not yet used Applicant’s BAM & Design Mark on or in connection with the applied-for goods.

9. Commencing prior to Applicant's claimed first use date of March 14, 2005, Opposer and/or its affiliates and licensees have offered for sale and sold in interstate commerce its goods and services, including but not limited to cooking and food demonstration services and a wide variety of goods and services, including, but not limited to, food, apparel, cookware, cooking accessories, and printed matter under Opposer’s BAM Marks.

10. Opposer's BAM Marks are distinctive and famous and were so prior to Applicant’s claimed first use date of March 14, 2005 of Applicant’s BAM & Design Mark.

11. Since prior to March 14, 2005, Applicant's claimed first use date, as a result of their great popularity, the press, media, fans and public have associated the term and mark BAM in connection with Opposer's wide variety of goods and services.

12. The goods for which Applicant seeks to register its mark are closely related to and/or within the zone of natural expansion of the goods and services in connection with which Opposer has used Opposer's BAM Marks.

13. Applicant's BAM & Design Mark so closely resembles Opposer's BAM Marks as to be likely, when applied to Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods and services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer.

14. Opposer would be injured by the granting to Applicant of a certificate of registration for Applicant's BAM and Design Mark.

15. Opposer would be further injured by the granting of a certificate of registration to Applicant because Applicant's BAM and Design Mark would falsely suggest a connection between Applicant and Opposer.

WHEREFORE, Opposer respectfully requests that its opposition be sustained and that the application for registration herein opposed be denied.

Dated: New York, New York
October 15, 2007

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

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