

ESTTA Tracking number: **ESTTA182802**

Filing date: **12/21/2007**

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	Morris National, Inc.
Granted to Date of previous extension	12/23/2007
Address	760 McKeever Avenue Azusa, CA 91702 UNITED STATES

Attorney information	Kenneth Sidle, Esq. Gipson Hoffman & Pancione 1901 Avenue of the Stars, Suite 1100 Los Angeles, CA 90067 UNITED STATES RSilverman@ghplaw.com Phone:(310) 556-4660
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Applicant Information

Application No	78851128	Publication date	06/26/2007
Opposition Filing Date	12/21/2007	Opposition Period Ends	12/23/2007
Applicant	American Licorice Co. 2796 NW Clearwater Drive Bend, OR 97701 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Candy
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3154598	Application Date	10/15/2004
Registration Date	10/10/2006	Foreign Priority Date	NONE
Word Mark	SIPS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2004/09/28 First Use In Commerce: 2004/09/28 CANDY

Attachments	morris opposition.pdf (7 pages)(298303 bytes) 76616088#TMSN.gif (1 page)(bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kenneth Sidle/
Name	Kenneth Sidle, Esq.
Date	12/21/2007

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

MORRIS NATIONAL, INC.

OPPOSER,

vs.

AMERICAN LICORICE CO.,

APPLICANT.

**In the Matter of Application Serial No.
78/851,128**

For the Mark SIP-N-CHEW

**Published in the Official Gazette on
June 26, 2007**

NOTICE OF OPPOSITION

This is in the matter of an application for registration on the Principal Register of American Licorice Co., a Delaware corporation, whose principal business address is 2796 NW Clearwater Drive, Bend, Oregon 97701, for the trademark SIP-N-CHEW. The application bears U.S. Serial No. 78/851,128 filed on March 31, 2006. The mark was published in the Official Gazette on June 26, 2007.

Opposer, Morris National, Inc., a corporation organized and existing under the laws of the State of California, and doing business at 760 McKeever Avenue, Azusa, California 91702 (“Opposer”), believes that it will be damaged by registration of the mark SIP-N-CHEW, Application Serial No. 78/851,128, filed on March 31, 2006 by American Licorice Co., a Delaware corporation (“Applicant”), and published for opposition in the Official Gazette on June 26, 2007, and hereby opposes same.

The grounds for this opposition are as follows:

1. Opposer is a manufacturer of candy and related products engaged in the business of manufacturing and selling candy and related products under various trademarks, including the trademark SIPS. This mark is well-known and famous. The mark SIPS is extensively advertised in connection with Opposer's goods. Opposer has built up a valuable reputation and good will in the mark SIPS as applied to and used in connection with Opposer's business.

2. Opposer is the owner of Registration No. 3,154,598 issued on October 10, 2006 for the mark SIPS used in conjunction with the sale of candy. A printout of this registration from the U.S. Patent and Trademark Office's publicly available website is attached hereto as Exhibit "1". Attached hereto as Exhibit "2" is a copy of the specimen showing use of the trademark SIPS.

3. The date of first use in California and in interstate commerce of Opposer's trademark SIPS is September 28, 2004. The Applicant's application for SIP-N-CHEW was filed on a bona fide intent to use and no statement of use has been filed as yet. Therefore, Opposer's date of first use of its trademark SIPS substantially predates Applicant's use of its trademark SIP-N-CHEW.

4. Opposer has invested a substantial amount of time, effort and money to enhance the reputation of its trademark SIPS and has continuously sold in interstate commerce since September 28, 2004 candy bearing the trademark SIPS.

5. Opposer has been using, advertising and promoting its trademark SIPS continuously in interstate commerce since September 28, 2004. Such active use, advertising and promotion of its trademark SIPS has enabled Opposer to develop a recognition within the consuming public that candy sold under the trademark SIPS originates with Opposer and has

created a valuable goodwill in this mark for Opposer.

6. Applicant filed Application Serial No. 78/851,128 on March 31, 2006 for the mark SIP-N-CHEW for use in conjunction with candy. The application was based on a bona fide intent to use. Therefore, Opposer has a very substantial priority of use of its trademark SIPS over the pending application for SIP-N-CHEW opposed herein.

7. The goods as published in the Official Gazette for Application 78/851,128 are for candy. On information and belief, the goods sold by Applicant are intended to be offered through the same channels of trade of commerce and to the same class of purchasers as the goods offered for sale by Opposer under Opposer's trademark SIPS.

8. Applicant's mark SIP-N-CHEW is virtually identical to Opposer's mark SIPS. Opposer's mark is used in conjunction with "SIPS CANDY DRINK" which is liquid candy sold in a miniature size soda bottle and "SIPS CANDY SPRAY" which is a smaller canister resembling a soda bottle but the candy is dispensed by a spray mechanism into the mouth.

9. Applicant's use, and if allowed registration of its SIP-N-CHEW mark will result in the presumption in the purchasing public's mind that there is a connection with Opposer because of the widespread fame and reputation of Opposer's mark. Because of the similarities in appearance, phonetics and connotation between Opposer's mark and the Applicant's mark and because of the nature of all of the goods sold by Opposer under its mark relative to the goods recited by the Applicant, the trade and purchasing public will likely be confused, mistaken and/or deceived, and will believe that Applicant's goods emanate from or in some way are associated or connected with, or sponsored, authorized or warranted by Opposer, all to Opposer's detriment. Opposer believes that Applicant's registration of the mark SIP-N-CHEW for the goods set forth

in the application, has and will continue to damage Opposer's established good will and reputation.

10. Opposer believes that the contemporaneous registration by Applicant of the mark SIP-N-CHEW will dilute and impair Opposer's trademark rights and will eventually result in lack of designation or indication of origin, and loss of distinctiveness and exclusivity, thereby damaging Opposer.

11. The use by Opposer of the trademark SIPS long predates the use of Applicant's mark SIP-N-CHEW.

12. Therefore, Opposer will be seriously damaged by allowance of Applicant's trademark SIP-N-CHEW because it would create a likelihood of confusion in the minds of the consuming public and further dilute and substantially detract from the Opposer's fine quality, high reputation trademark, frustrate Opposer's extensive efforts in merchandising its SIPS trademark through the United States and limit Opposer's right to continue to use and naturally expand the use of its mark SIPS.

WHEREFORE, Opposer respectfully prays that its opposition be sustained and that the registration of the SIP-N-CHEW mark of Applicant, Serial No. 78/851,128, in International Class 30 for candy be denied and this opposition be sustained.

Respectfully submitted,

GIPSON/HOFFMAN & PANCIONE,

By: Kenneth I. Sidle

Kenneth I. Sidle
Attorneys for MORRIS NATIONAL, INC.
1901 Avenue of the Stars, Suite 1100
Los Angeles, CA 90067
(310) 556-4660

Dated: December 21, 2007

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,154,598

Registered Oct. 10, 2006

**TRADEMARK
PRINCIPAL REGISTER**

SIPS

MORRIS NATIONAL, INC. (CALIFORNIA CORPORATION)
760 MCKEEVER AVENUE
AZUSA, CA 91702

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

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

SN 76-616,088, FILED 10-15-2004.

FIRST USE 9-28-2004; IN COMMERCE 9-28-2004.

RICHARD A. STRASER, EXAMINING ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Notice of Opposition to be sent this 21th day of December, 2007 by prepaid first-class mail to Applicant's correspondent of record:

Barry J. Parker, Esq.
Carr, McClellan, Ingersoll, Thompson & Horn,
a Professional Law Corporation
216 Park Road
Burlingame, California 94010

Kenneth I. Sidle

Kenneth I. Sidle