

ESTTA Tracking number: **ESTTA272251**

Filing date: **03/16/2009**

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	Patsy's Brand, Inc.
Granted to Date of previous extension	04/01/2009
Address	236 West 56th St. New York, NY 10019 UNITED STATES

Attorney information	Norman H. Zivin Cooper & Dunham LLP 30 Rockefeller Plaza New York, NY 10112 UNITED STATES nzivin@cooperdunham.com Phone:212-278-0400
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Applicant Information

Application No	77508153	Publication date	12/02/2008
Opposition Filing Date	03/16/2009	Opposition Period Ends	04/01/2009
Applicant	Patsy's Place LLC 8443 Kirkwood Drive Los Angeles, CA 90046 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2002/10/28 First Use In Commerce: 2007/09/30 All goods and services in the class are opposed, namely: Entertainment services, namely, a multimedia program series featuring comedy, action and adventure distributed via various platforms across multiple forms of transmission media

Applicant Information

Application No	77508176	Publication date	11/18/2008
Opposition Filing Date	03/16/2009	Opposition Period Ends	
Applicant	Patsy's Place LLC 8443 Kirkwood Drive Los Angeles, CA 90046 UNITED STATES		

Goods/Services Affected by Opposition

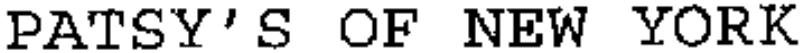
Class 041. First Use: 2002/10/28 First Use In Commerce: 2007/09/30
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Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3090551	Application Date	02/12/2001
Registration Date	05/09/2006	Foreign Priority Date	NONE
Word Mark	PATSY'S OF NEW YORK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2005/10/00 First Use In Commerce: 2005/10/00 RESTAURANT SERVICES		

U.S. Registration No.	1874789	Application Date	06/14/1993
Registration Date	01/17/1995	Foreign Priority Date	NONE
Word Mark	PATSY'S PR SINCE 1944		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1994/02/15 First Use In Commerce: 1994/02/15 sauces		

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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	/norman h. zivin/
Name	Norman H. Zivin
Date	03/16/2009

NOTICE OF OPPOSITION

PATSY'S BRAND, INC., a corporation of the State of New York, having a place of business at 236 West 56th Street, New York, New York 10019 (hereinafter "Opposer"), believes that it is being and will continue to be damaged by applications for registration in the name of PATSY'S PLACE LLC, a limited liability company of the State of California, having a place of business at 8443 Kirkwood Drive, Los Angeles, California 90046 (hereinafter "Applicant"), and hereby opposes the same.

As grounds for the Opposition, Opposer states as follows:

1. In 1944, Pasquale Scognamillo opened an Italian restaurant on West 56th Street in New York City named "Patsy's," which has been continuously operated until today. "Patsy's" restaurant has been a family-owned restaurant for more than 60 years.

2. Since it opened in 1944, "Patsy's" restaurant has enjoyed an outstanding reputation throughout the United States for serving fine Italian cuisine in New York City. "Patsy's" restaurant has received much critical acclaim and has attracted celebrities, including particularly Frank Sinatra, whose visits to "Patsy's" restaurant have been widely reported by national and local media.

3. "Patsy's" restaurant also is well-known for its high quality sauces. The sauces have been sold nationwide since 1994 under the trademark PATSY'S. From time-to-time, additional packaged food products have been added to the line of products.

4. "Patsy's" restaurant is a famous institution, and both the restaurant and the food products bearing its name are widely recognized throughout the United States.

5. "Patsy's" chef Sal Scognamillo, the grandson of the original chef "Patsy," makes regular appearances on national and local television and radio programs demonstrating the art of Italian cooking and marketing "Patsy's" restaurant and food products. For example, chef Sal Scognamillo has appeared on The Today Show, Good Day NY, The Martha Stewart Show and The Tony Danza Show.

6. "Patsy's" restaurant and PATSY'S food products are also featured on its website www.patsys.com. Clips of chef Sal Scognamillo's television and radio appearances are also featured on the website.

7. As a result of Opposer's extensive promotional, marketing, distribution and sales efforts, the reputation of the "Patsy's" name and PATSY'S trademark continuously have grown among the general public and the name and mark now are well and favorably known throughout the United States as a source of origin.

8. The name "Patsy's" and trademark PATSY'S are distinctive and famous as applied to restaurant services and sauces.

9. Opposer is the owner of the PATSY'S trademark, which has been registered for restaurant services upon the Principal Register of the United States Patent and Trademark Office under Registration

No. 3,090,551, issued May 9, 2006, and for sauces, under and Registration No. 1,874,789, issued January 17, 1995. The registrations are valid and subsisting.

10. On information and belief, Applicant recently created a television or Internet program centered about a fanciful New York-style restaurant named "Patsy's Place." The episodes available on the Internet feature a chef named "Patsy" who demonstrates Italian cooking, prepares sauces and purportedly operates the restaurant.

11. On or about June 25, 2008, Applicant filed two applications to register the mark PATSY'S PLACE for entertainment services on the Principal Register of the Patent and Trademark Office. Both applications allege a date of first use in commerce of September 30, 2007, more than 60 years after Opposer's date of first use.

12. Applicant's use of the mark PATSY'S PLACE for entertainment services as described above is likely to cause confusion, mistake or deception, and actually has caused confusion, in view of Opposer's and its predecessors' long prior use of the name "Patsy's" and mark PATSY'S.

13. Applicant's use of the mark PATSY'S PLACE impairs the distinctiveness of Opposer's famous mark and tarnishes and harms the reputation of Opposer's famous mark.

14. Applicant's applications and registration of the mark PATSY'S PLACE on the Principal Register have caused and will cause damage to Opposer and interfere with Opposer's business.

WHEREFORE, Opposer prays that its opposition be sustained and that the applications opposed be refused.