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

Proceeding	91194986
Party	Plaintiff Consolidated Dist. Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Mark NUK

AMMENDED NOTICE OF OPPOSITION

CONSOLIDATED DISTRIBUTORS INC , A NY CORP “ Opposer” believes that IT will be damaged by registration of Application for NUK (“Applicant’s mark”), published for purposes of opposition in the Official Gazette , against which Opposer filed a Request for Extension of Time to Oppose that extended the date by which Opposer could oppose the application and hereby opposes registration of the Applicant’s mark in International Class 25.

As grounds for opposition, Opposer alleges as follows:

1. Opposer is a NY Corporation and is doing BUSINESS IN NY THROUGH RELATED COS.
2. Upon information and belief, APPLICANT IS A GERMAN CO.
3. Applicant seeks to register Applicant’s alleged mark for : “CLOTHING” in International Class 25 as evidenced by the publication of the subject mark .
4. Applicant seeks to register Applicant’s alleged mark based on SECT 66
5. Opposer HAS adopted the trademark NUK as early as 1986. The aforementioned Marks have been used continuously in interstate commerce since 1987 and is now used by and through its related parent CO JOE COOL INC FLA corp.. (“Opposer’s mark”)
6. Opposer has, under its "Opposers Marks" engaged in interstate commerce since 1987, and has promoted IT such that IT has achieved secondary meaning in the relevant channels of trade for wearing apparel / t-shirts and heat transfers / decals used for clot hings.
6. Opposer has, engaged in the sale and marketing of inter Alia t-shirts since 1987
8. There is no issue of priority. Opposer is the senior user upon Applicant’s own allegations and or admission BASED ON ITS SEC 66
9. The Applicant’s alleged mark is essentially identical in sound, appearance and overall

commercial impression to Opposer's mark

10. The opposed goods set forth in Applicant's Application are substantially identical to and directly competitive with Opposer's goods

11. Applicant's products WILL pass through the same or overlapping trade channels.

12. Applicant's "mark" so resembles Opposer's mark as to be likely, when used in connection with the identified goods, to confuse, mislead, or deceive the purchasing public as to affiliation, connection, sponsorship, endorsement, approval, or association of Applicant's goods with Opposer within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C Section 1052(d).

13. Opposer's mark has a sufficient reputation among consumers such that when Applicant's mark is used on or in connection with the opposed goods, a false connection with Opposer would be or likely to be presumed by consumers.

14. Opposer has no control over the nature and quality of the goods provided by Applicant under Applicant's mark and thus will be damaged and irreparably harmed by reason of the loss of control over his reputation and the erosion of goodwill of Opposer's mark.

15. Opposer will be irreparably injured and damaged if Applicant is permitted to use and register Applicant's mark in International Class 25. or related classification/s

17. Upon information and belief, applicant knew of Opposers prior use of confusingly similar Mark

18 Upon information and belief the opposed Application thus contains false and or fraudulent statements.

a. he did not inform the pto of prior usages of mark

b. he had no actual mark usage when he signed the application

WHEREFORE, for the reasons set forth above, Opposer prays that Applicant's U.S. Trademark Application FOR NUK be rejected, that no registration be issued thereon to Applicant and that this Notice of Opposition be sustained in favor of Opposer.

This Notice of Opposition is being filed electronically, so no duplicate copy is in order. The fee required by Section 2.6(a)(17) will be paid simultaneously with filing.

Respectfully submitted,

/J AMMAR/
VP OPPOSER

JOE COOL, INC
7183639505

719 EASTERN PK ST3
BKLYN NY 11213

CERTIFICATE OF SERVICE

Joe Cool, Inc verifies that it has prepared a copy of the foregoing to be served on Applicant by fax transmission / 1st class mail on 6 19 10

/AMMAR/ P.