

ESTTA Tracking number: **ESTTA362107**

Filing date: **08/09/2010**

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	Jet's America, Inc.
Granted to Date of previous extension	08/11/2010
Address	37501 Mound Road Sterling Heights, MI 48310 UNITED STATES

Attorney information	Barbara L. Mandell Kohn & Associates, PLLC 30500 Northwestern Highway, Suite 410 Farmington Hills, MI 48334 UNITED STATES kohn@kohnonline.com, bmandell@kohnonline.com Phone:248.539.5050
----------------------	--

**Applicant Information**

Application No	77978643	Publication date	04/13/2010
Opposition Filing Date	08/09/2010	Opposition Period Ends	08/11/2010
Applicant	Sitos Srl via Zeni 8 Rovereto (Tn), 38068 ITALY		

**Goods/Services Affected by Opposition**

Class 009. All goods and services in the class are opposed, namely: vending machines
Class 035. All goods and services in the class are opposed, namely: vending machine services

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------


**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2150029	Application Date	11/28/1995
Registration Date	04/14/1998	Foreign Priority Date	NONE
Word Mark	JET'S		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 hats, shirts and sweatshirts Class 029. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 garden salads Class 030. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 food products, namely, pizza, submarine sandwiches, calzones and bread

U.S. Registration No.	2133757	Application Date	04/01/1996
Registration Date	02/03/1998	Foreign Priority Date	NONE

Word Mark	JET'S PIZZA
-----------	-------------

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	Class 025. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 hats, shirts and sweatshirts Class 029. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 garden salads Class 030. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 food products, namely, pizza, submarine sandwiches, calzones and bread
----------------	---

U.S. Registration No.	2712642	Application Date	02/16/2001
Registration Date	05/06/2003	Foreign Priority Date	NONE

Word Mark	JET'S PIZZA
-----------	-------------

Design Mark	
-------------	--

Description of	NONE
----------------	------

Mark	
Goods/Services	<p>Class 025. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Hats, shirts and sweat shirts</p> <p>Class 029. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Salads, namely, antipasto, garden, tuna</p> <p>Class 030. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Food products, namely, pizza, submarine sandwiches, calzones and bread</p>

U.S. Registration No.	3802330	Application Date	09/04/2009
Registration Date	06/15/2010	Foreign Priority Date	NONE

Word Mark	LET'S GET JET'S
-----------	-----------------

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	<p>Class 025. First use: First Use: 2009/08/17 First Use In Commerce: 2009/08/17 Hats, sweatshirts, and t-shirts</p> <p>Class 030. First use: First Use: 2009/08/17 First Use In Commerce: 2009/08/17 Pizza, Calzones, Bread and Submarine sandwiches</p> <p>Class 043. First use: First Use: 2009/08/17 First Use In Commerce: 2009/08/17 Carry-out restaurants</p>
----------------	--

U.S. Application No.	85023882	Application Date	04/27/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	JET'S PIZZA
-----------	-------------

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	Class 029. First use: First Use: 1982/07/28 First Use In Commerce: 1982/07/28 Antipasto salads; Garden salads; Tuna fish Class 030. First use: First Use: 1982/07/28 First Use In Commerce: 1982/07/28 Bread; Calzones; Pizza; Sandwiches, namely, submarine sandwiches Class 043. First use: First Use: 1982/07/28 First Use In Commerce: 1982/07/28 Carry-out restaurants; Restaurants featuring home delivery; Take-out restaurant services
----------------	---

U.S. Application No.	85040061	Application Date	05/17/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	JET'S
-----------	-------

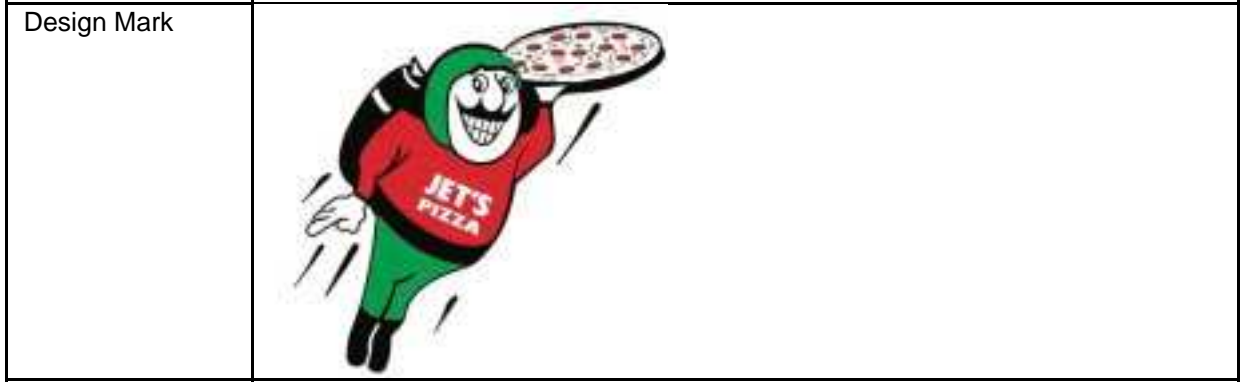


Description of Mark	NONE
---------------------	------

Goods/Services	Class 043. First use: First Use: 1982/07/28 First Use In Commerce: 1982/07/28 Carry-out restaurants; Restaurants featuring home delivery; Take-out restaurant services
----------------	---

U.S. Application No.	85050126	Application Date	05/28/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	JET'S PIZZA
-----------	-------------



Description of Mark	The mark consists of a mustached man with a jet pack on his back. He is holding a pizza aloft in his left hand as he ascends northeast; his pants and hat are green, his belt and jet pack are black and his shirt is red with JET'S PIZZA in white letters.
---------------------	--

Goods/Services	Class 025. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20
----------------	---

	<p>Wearable garments and clothing, namely, shirts  Class 029. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20  Antipasto salads; Garden salads; Vegetable salads</p> <p>Class 030. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20  Pizza; Pizza dough; Sandwiches, namely, cold submarine sandwiches</p> <p>Class 043. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20  Carry-out restaurants; Restaurants featuring home delivery; Take-out restaurant services</p>
--	--

U.S. Application No.	85050151	Application Date	05/28/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	JET'S PIZZA JET'S PIZZA
-----------	-------------------------

Design Mark	 <p>The logo consists of a cartoon character on the left and stylized text on the right. The character is a man with a large mustache, wearing a green hat and pants, a red shirt with 'JET'S PIZZA' written on it, and a black jet pack on his back. He is holding a pizza aloft in his left hand and is depicted in a dynamic, ascending pose. To the right of the character, the words 'JET'S' and 'PIZZA' are written in a large, bold, stylized font. 'JET'S' is in a red-to-green gradient, and 'PIZZA' is in solid black.</p>
-------------	---

Description of Mark	<p>The mark consists of a mustached man ("jet man") powered by a jet pack on his back holding a pizza aloft in his left hand as he ascends northeast; his pants and hat are green, his belt and jet pack are black and his shirt is red with JET'S PIZZA in white letters; the stylized JET'S PIZZA appears on the right of the jet man .</p>
---------------------	---

Goods/Services	<p>Class 025. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20  Wearable garments and clothing, namely, shirts</p> <p>Class 029. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20  Antipasto salads; Garden salads; Vegetable salads</p> <p>Class 030. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20  Calzones; Pizza; Pizza dough; Sandwiches, namely, cold submarine sandwiches</p> <p>Class 043. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20  Carry-out restaurants; Restaurants featuring home delivery; Take-out restaurant services</p>
----------------	---

Related Proceedings	<p>Opposer will also be filing an Opposition to Serial Number 77/978,644 for LET'S PIZZA and Design.</p>
---------------------	--

Attachments	<p>75081861#TMSN.gif ( 1 page )( bytes )  76211800#TMSN.gif ( 1 page )( bytes )  77820787#TMSN.jpeg ( 1 page )( bytes )  85023882#TMSN.jpeg ( 1 page )( bytes )  85040061#TMSN.jpeg ( 1 page )( bytes )  85050126#TMSN.jpeg ( 1 page )( bytes )  85050151#TMSN.jpeg ( 1 page )( bytes )  JET'S OPPOSITION TO LET'S PIZZA SN '643.pdf ( 4 pages )(37476 bytes )</p>
-------------	--

---

---

## 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	/Barbara L. Mandell/
Name	Barbara L. Mandell
Date	08/09/2010

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

In the Matter of Serial No.: 77/978,643  
Filed: April 6, 2009  
Published: April 13, 2010

<b>JET’S AMERICA, INC.</b>	)	<b>Opposition No.</b> _____
	)	<b>Mark: LET’S PIZZA</b>
	)	
	)	
<b>Opposer,</b>	)	
	)	
<b>v.</b>	)	
	)	
	)	
<b>SITOS SRL,</b>	)	
	)	
<b>Applicant.</b>	)	
	)	

**NOTICE OF OPPOSITION**

Jet’s America, Inc. (hereafter, “Opposer” or “Jet’s Pizza”), a Michigan corporation located and doing business at 37501 Mound Road, Sterling Heights, Michigan, believes it will be damaged by registration of the mark shown in Serial Number 77/978,643 (“the ‘643 Application”) and hereby opposes same. The ‘643 Application was filed under filing basis 1B on April 6, 2009, and published for opposition in the Official Gazette on April 13, 2010. Jet’s Pizza’s Opposition is based on the following grounds.

1. Opposer began using the trademark JET’S PIZZA in connection with its pizzerias on July 28, 1982. Since that time, both Jet’s Pizza and its franchisees around the

country have used JET'S PIZZA and other marks containing the formative "JETS" continuously and extensively in interstate commerce.

2. Opposer is the owner of numerous federal registrations for its family of JET'S trademarks. The following are most relevant to this Opposition:

<b>Mark</b>	<b>Registration No.</b>	<b>Registration Date</b>	<b>International Class</b>
JET'S	2,150,029	4/19/1998	25, 29, 30
JET'S PIZZA & Design	2,133,757	2/3/1998	25, 30, 43
JET'S PIZZA	2,712,642	5/6/2003	25, 29, 30
LET'S GET JET'S	3,802,330	6/15/2010	25, 30, 43

3. These registrations are in full force and effect, unrevoked and uncancelled. In addition, Registration Nos. 2,150,029; 2,133,757; and 2,712,642 have become incontestable and, thus, they constitute conclusive evidence of the validity of those marks, the registration of the marks, Opposer's ownership of the marks and Opposer's exclusive right to use the marks in commerce. 15 U.S.C. §1115(a) and (b).

4. Upon information and belief, Applicant is a corporation based in Italy, located at via Zeni 8 Rovereto (Tn) ITALY 38068.

5. On April 6, 2009, Applicant filed Serial Number 77/707,449 based on an intent to use the mark LET'S PIZZA in the United States for the following goods and services: vending machines, pizza, vending machine services and food preparation services. The application was divided and the application for pizza and food preparation services



(Classes 30 and 43, respectively) is currently proceeding under Serial Number 77/707,449 with a final office action pending. The now separate '643 Application relates to vending machines and related services (Classes 9 and 35, respectively) to make, and bake and sell pizza. Opposer is simultaneously filing an Opposition to Serial Number 77/978,644, for LET'S PIZZA and Design.

6. Registration of the '643 Application should be denied on the basis that the mark sought to be registered, **LET'S PIZZA**, is confusingly similar to Opposer's prior use of and prior registrations for **JET'S PIZZA** and **LET'S GET JET'S**.

7. The use of the LET'S PIZZA mark by Applicant is likely to cause confusion or mistake in the minds of the public and to lead the public and prospective purchasers to believe that Applicant's goods and services are those of Opposer or are endorsed, sponsored, or otherwise affiliated or connected with Opposer, or that Opposer's goods and services are associated with Applicant, all to the damage and injury of the purchasing public and to the damage and injury of Opposer. Further, the mark in Applicant's '643 Application cannot be registered consistent with Section 2(d) of the Lanham Act, 15 U.S.C. § 1052 (d).

**WHEREFORE**, Jet's Pizza believes that it would be damaged by registration of the mark shown in Applicant's '643 Application and prays that Application Serial No. 77/978,643 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Jet's Pizza.

Dated: August 9, 2010

Respectfully submitted,

/Kenneth I. Kohn, Ph.D  
Kenneth I Kohn, Ph.D.  
Barbara L. Mandell  
Attorneys for Jet's America, Inc.  
Kohn & Associates PLLC  
30500 Northwestern Hwy, Suite 410  
Farmington Hills, MI 48334  
248.539.5050  
248.539.5055 (fax)  
[kkohn@kohnonline.com](mailto:kkohn@kohnonline.com)  
[bmandell@kohnonline.com](mailto:bmandell@kohnonline.com)

**Attorneys for Jet's America, Inc.**

CERTIFICATE OF SERVICE

I, Barbara L. Mandell, do hereby certify that on this 9th day of August, 2010, I caused to be delivered by United States mail a true and correct copy of the above document to the following addressee:

Sean Dwyer  
Blank Rome LLP  
One Logan Square  
130 North 18th Street  
Philadelphia PA 19103-6998

s/Barbara L. Mandell  
Barbara L. Mandell