

ESTTA Tracking number: **ESTTA377441**

Filing date: **11/08/2010**

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	Hansel 'N Gretel Brand, Inc.
Granted to Date of previous extension	11/07/2010
Address	79-36 Cooper Avenue Glendale, NY 11385 UNITED STATES
Attorney information	Paul J. Sutton Sutton Magidoff LLP 909 Third Avenue 27th Floor New York, NY 10022 UNITED STATES augusta@suttonmagidoff.com, barry@suttonmagidoff.com, docket@suttonmagidoff.com Phone:212-584-1990

**Applicant Information**

Application No	79076538	Publication date	05/11/2010
Opposition Filing Date	11/08/2010	Opposition Period Ends	11/07/2010
International Registration No.	0832789	International Registration Date	04/26/2004
Applicant	ADRIA ZDRAVA HRANA d.o.o. Boskoviceva 3 HR-10000 Zagreb  CROATIA		

**Goods/Services Affected by Opposition**

Class 030. All goods and services in the class are opposed, namely: Bakery goods, namely, cakes and biscuits; confectionary, namely, caramels, bonbons, chocolates, candy bars, cookies, chocolate desserts in the nature of candy and frozen confections, and candy pieces; ice creams
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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.	2558811	Application Date	08/03/2001
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Registration Date	04/09/2002	Foreign Priority Date	NONE
Word Mark	HANSEL 'N GRETEL		
Design Mark	<b>HANSEL 'N GRETEL</b>		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1954/11/00 First Use In Commerce: 1954/11/00 PROCESSED MEATS		

U.S. Registration No.	1655637	Application Date	07/06/1987
Registration Date	09/03/1991	Foreign Priority Date	NONE
Word Mark	HANSEL 'N GRETEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1954/11/00 First Use In Commerce: 1954/11/00 PROCESSED DELICATESSEN MEATS AND CHEESES SOLD IN BULK; NAMELY, BOLOGNA, SALAMI, LIVERWURST, MEATLOAF, HAM, PASTRAMI, TURKEY AND CHEESE		

U.S. Registration No.	2164029	Application Date	05/30/1997
Registration Date	06/09/1998	Foreign Priority Date	NONE
Word Mark	HANSEL 'N GRETEL		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1995/07/24 First Use In Commerce: 1995/07/24 processed meats

Attachments	76293794#TMSN.gif ( 1 page )( bytes ) 73670343#TMSN.gif ( 1 page )( bytes ) 75300457#TMSN.gif ( 1 page )( bytes ) Notice_of_Opposition.pdf ( 10 pages )(359938 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	/Barry G. Magidoff/
Name	Barry G. Magidoff
Date	11/08/2010

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

**In re: U. S. Application Serial No. 79/076,538**  
**Mark: HÄNSEL AND GRETEL ZDRAVI KOLACI**  
**Published: May 11, 2010**

-----x

Hansel 'N Gretel Brand, Inc.

Opposer,

-against-

Adria Zdrava Hrana d.o.o.

Applicant.

Opposition No.

NOTICE OF OPPOSITION

-----x

BOX TTAB – FEE  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

S I R S:

Reference is made to Application Serial No. 79/076,538, published in the Official Gazette of the United States Patent and Trademark Office on May 11, 2010 and owned by Adria Zdrava Hrana d.o.o. (hereinafter, "Applicant"), for HÄNSEL AND GRETEL ZDRAVI KOLACI (HÄNSEL AND GRETEL Trademark"), in Class 30 for "bakery goods, namely, cakes and biscuits; confectionary, namely, caramels, bonbons, chocolates, candy bars, cookies, chocolate desserts in the nature of candy and frozen confections, and candy pieces; ice creams."

PARTIES

A. Applicant

Upon information and belief, Applicant is a limited liability company of Croatia, with a principal place of business at Boskovicева 3 HR-10000 Zagreb CROATIA.

B. Opposer

Opposer, Hansel 'N Gretel Brand, Inc. (hereinafter, "Opposer"), is a New York corporation with a principal place of business at 79-36 Cooper Avenue, Glendale, New York 11385. Opposer believes it will be damaged by registration of Applicant's HÄNSEL AND GRETEL Trademark in International Class 30, and hereby opposes same in these classes.

GROUND FOR OPPOSITION

1. Applicant filed its application on July 15, 2009 seeking to register the HÄNSEL AND GRETEL Trademark in International Class 30.

2. Opposer is the owner of the following valid, subsisting and incontestable United States Trademark Registrations for HANSEL 'N GRETEL (see attached printouts from the U. S. Patent and Trademark Office):

Mark: HANSEL 'N GRETEL  
Reg. No. 2,558,811 for processed meats;

Mark: HANSEL 'N GRETEL and Design  
Reg. No. 1,655,637 for processed delicatessen meats and cheeses sold in bulk; namely, bologna, salami, liverwurst, meatloaf, ham, pastrami, turkey and cheese; and

Mark: HANSEL 'N GRETEL and Design  
Reg. No. 2,164,029 for processed meats.

3. The HANSEL 'N GRETEL trademarks listed above are and have become a valuable asset of Opposer, with extremely valuable goodwill and a valuable reputation. Opposer has used the HÄNSEL AND GRETEL Trademark in commerce for over 55 years in connection with the goods specified in its application, and during this period Opposer has expended considerable time, effort and resources to develop, advertise, market and sell goods bearing the HANSEL 'N GRETEL trademark. Opposer's widespread use of the HANSEL 'N GRETEL trademark has long predated Applicant's use and filing date.

4. Opposer's long-term, prominent usage of its HANSEL 'N GRETEL trademark has generated goodwill and widespread consumer recognition for this mark as identifying exclusively Opposer and its products.

5. Applicant's HÄNSEL AND GRETEL Trademark incorporates and plays upon Opposer's HANSEL 'N GRETEL trademark, which has been used in this country long before Applicant's filing date or initial use.

6. The goods covered by Opposer's HANSEL 'N GRETEL trademark are sold in the same channels of trade as the goods contained in Applicant's Application Serial No. 79/076,538.

## **COUNT I**

### **LIKELIHOOD OF CONFUSION**

7. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 6 herein.

8. The HÄNSEL AND GRETEL Trademark proposed for registration by Applicant, incorporates and plays upon Opposer's HANSEL 'N GRETEL trademark.

9. The HÄNSEL AND GRETEL Trademark proposed for registration by Applicant is confusingly similar to Opposer's HANSEL 'N GRETEL trademark, rendering them similar in sound, sight and overall connotation.

10. Applicant's HÄNSEL AND GRETEL Trademark is intended to be used on goods in the same general market, and sold in the same channels of trade as the goods offered by Opposer under its HANSEL 'N GRETEL trademark.

11. If Applicant is permitted to register and use its HÄNSEL AND GRETEL Trademark, as specified in its application, confusion in the trade and in the minds of the public resulting in injury to the Opposer would likely result. Persons familiar with Opposer's mark

would likely buy Applicant's goods as and for products made and sold by Opposer or at least believe Applicant's products were sanctioned, authorized, licensed by or related to Opposer. Furthermore, any defect, objection or fault found with Applicant's products marketed under its mark would likely reflect upon and injure the reputation Opposer establishes with respect to the goods sold under its aforementioned mark.

12. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer

## **COUNT II**

### **DILUTION**

13. Opposer repeats and alleges each and every allegation set forth in paragraphs 1 through 6 herein.

14. Opposer will be damaged by the continued use and registration by Applicant of the HÄNSEL AND GRETEL Trademark in that the mark is very similar to Opposer's HANSEL 'N GRETEL trademark and common law rights and is used in connection with goods related to the goods offered to the public by Opposer, in that they are also food products and are sold in the same channels of trade.

15. Through Opposer's extensive advertising and promotion, Opposer's HANSEL 'N GRETEL trademark has become distinctive and famous. Upon information and belief, Applicant's filing or use of the HÄNSEL AND GRETEL Trademark began well after Opposer's HANSEL 'N GRETEL trademark became distinctive and famous. Applicant's HÄNSEL AND GRETEL Trademark is likely to tarnish the positive associations of Opposer's famous HANSEL 'N GRETEL trademark. Thus, in addition, if Applicant were granted the registration herein

opposed, it would cause dilution of the distinctive quality of Opposer's famous HANSEL 'N GRETEL trademark.

16. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

**RELIEF REQUESTED**

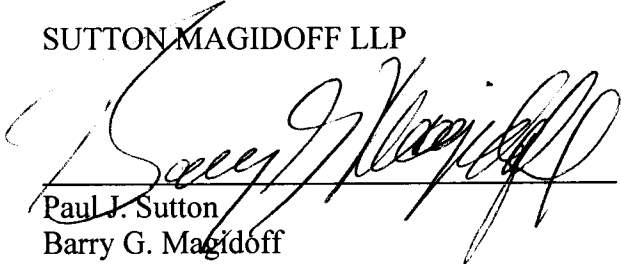
WHEREFORE, the Opposer prays that, the Application Serial No. 79/076,538 be rejected, and that the registration of the mark therein, sought for the goods specified in International Class 30, be denied and refused in accordance with 15 U.S.C. §1052(d), and that this opposition is sustained.

Dated: New York, New York  
November 8, 2010

Respectfully submitted,

SUTTON MAGIDOFF LLP

By:

  
\_\_\_\_\_  
Paul J. Sutton  
Barry G. Magidoff  
Attorneys for Opposer  
909 Third Avenue  
27<sup>th</sup> Floor  
New York, NY 10022  
(212) 584-1990





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### Typed Drawing

**Word Mark**                    **HANSEL 'N GRETEL**  
**Goods and Services**      IC 029. US 046. G & S: PROCESSED MEATS. FIRST USE: 19541100. FIRST USE IN COMMERCE: 19541100  
**Mark Drawing Code**      (1) TYPED DRAWING  
**Serial Number**              76293794  
**Filing Date**                August 3, 2001  
**Current Filing Basis**      1A  
**Original Filing Basis**      1A  
**Published for Opposition**      January 15, 2002  
**Registration Number**      2558811  
**Registration Date**        April 9, 2002  
**Owner**                      (REGISTRANT) HANSEL 'N GRETEL BRAND, INC. CORPORATION NEW YORK 79-36 Cooper Avenue Glendale NEW YORK 11385  
**Attorney of Record**      Paul J.Sutton  
**Prior Registrations**      0922033;1655637  
**Type of Mark**                TRADEMARK  
**Register**                    PRINCIPAL  
**Affidavit Text**              SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator**      LIVE

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<b>Word Mark</b>	<b>HANSEL 'N GRETEL</b>
<b>Goods and Services</b>	IC 029. US 046. G & S: PROCESSED DELICATESSEN MEATS AND CHEESES SOLD IN BULK; NAMELY, BOLOGNA, SALAMI, LIVERWURST, MEATLOAF, HAM, PASTRAMI, TURKEY AND CHEESE. FIRST USE: 19541100. FIRST USE IN COMMERCE: 19541100
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	02.05.04 - Children, girl(s); Girls 02.05.05 - Boys; Children, boy(s) 02.05.07 - Children wearing folk, historical, farm, Indian or cowboy costumes; Costumes, cowboy (children wearing); Costumes, farm (children wearing); Costumes, folk (children wearing); Costumes, historical (children wearing) 02.07.05 - Groups, children 07.01.04 - Detached house 26.13.01 - Quadrilaterals as carriers or as single or multiple line borders
<b>Serial Number</b>	73670343
<b>Filing Date</b>	July 6, 1987
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	June 11, 1991
<b>Registration Number</b>	1655637

**Registration Date** September 3, 1991  
**Owner** (REGISTRANT) HANSEL 'N GRETEL BRAND, INC. CORPORATION NEW YORK 79-36 COOPER AVENUE GLENDALE NEW YORK 11385  
**Attorney of Record** Paul J.Sutton  
**Prior Registrations** 0922033  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20011005.  
**Renewal** 1ST RENEWAL 20011005  
**Live/Dead Indicator** LIVE

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**Word Mark** HANSEL 'N GRETEL  
**Goods and Services** IC 029. US 046. G & S: processed meats. FIRST USE: 19950724. FIRST USE IN COMMERCE: 19950724  
**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design Search Code** 02.01.31 - Men, stylized, including men depicted in caricature form  
 02.03.24 - Women, stylized, including women depicted in caricature form  
 02.07.03 - Groups, males and females  
 07.01.04 - Detached house  
 26.11.01 - Rectangles as carriers or rectangles as single or multiple line borders  
**Serial Number** 75300457  
**Filing Date** May 30, 1997  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** March 17, 1998  
**Registration Number** 2164029  
**Registration Date** June 9, 1998  
**Owner** (REGISTRANT) HANSEL 'N GRETEL BRAND, INC. CORPORATION NEW YORK 79-36 Cooper Avenue Glendale NEW YORK 11385  
**Attorney of Record** Paul J.Sutton  
**Prior Registrations** 0922033;1655637  
**Type of Mark** TRADEMARK

**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080729.  
**Renewal** 1ST RENEWAL 20080729  
**Other Data** The lining is a feature of the mark and is not intended to indicate color.  
**Live/Dead Indicator** LIVE

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