

ESTTA Tracking number: **ESTTA470594**

Filing date: **05/03/2012**

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	Tatiana Brunetti Gans-Mex, LLC d.b.a MPD
Granted to Date of previous extension	05/12/2012
Address	73 Gansevoort Street New York, NY 10014 UNITED STATES
Party who filed Extension of time to oppose	Gans-Mex, LLC d.b.a MPD
Relationship to party who filed Extension of time to oppose	Tatiana Brunetti is a Managing Member of Opposer, Gans-Mex, LLC d.b.a. MPD.

Correspondence information	Alexander Karasik Attorney Karasik Law Group, P.C. 65 Broadway, Seventh Floor New York, NY 10006 UNITED STATES alex@karasiklawyers.com Phone:(212)430-6556
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Applicant Information

Application No	85439019	Publication date	03/13/2012
Opposition Filing Date	05/03/2012	Opposition Period Ends	05/12/2012
Applicant	DUAL GROUPE LLC 1500 Broadway, Suite 2003 New York, NY 10036 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 2009/12/21 First Use In Commerce: 2010/10/04 All goods and services in the class are opposed, namely: Bar and restaurant services
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Dilution	Trademark Act section 43(c)
Other	Applicant did not own the mark at time application was filed and lacked bona fide commercial use of the mark.

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	MPD		
Goods/Services	Restaurant bar serving food and alcoholic beverages.		

Related Proceedings	United States District Court Southern District of New York matter: Dual Groupe, LLC, v. Gans- Mex, LLC, Ginza Project, LLC and Tatiana- Brunetti; Case No: 1:12-CIV-01031-TPG
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Attachments	Notice of Opposition (USPTO).pdf (3 pages)(15359 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 Overnight Courier on this date.

Signature	/Alexander Karasik/
Name	Alexander Karasik
Date	05/03/2012

IN THE UNITED STATES PATENT AND TRADEMARK
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-----	-X	Trademark Application
)	
GANS-MEX, LLC and TATIANA BRUNETTI,)	Mark: DUAL
)	
Opposers)	Serial No: 85439019
-against-)	
)	Filed: October 4, 2011
DUAL GROUPE, LLC,)	
)	Published March 13, 2012
Applicant.)	
)	Opposition No. ____
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NOTICE OF OPPOSITION

Commissioner for Trademarks.

Sir/Madam:

Gans-Mex, LLC, a New York Limited Liability Company located at 73 Gansevoort Street, New York, NY 10014, itself and through its managing member, Tatiana Brunetti, an individual residing at 247 West 46th Street, Apt. 3502, New York, NY 10036 (“Gans-Mex” and “Opposer”), believes that it will be damaged by registration by Dual Groupe, LLC (“Dual” or “Applicant”) of the mark MPD shown in Application Serial Number: 85439019 and hereby opposes the same.

As grounds for opposition Opposers allege:

1. Dual filed a trademark application assigned Application Serial Number: 85439019 in the United States Patent and Trademark Office (“USPTO”) on October 4, 2011 (“the Application”) to register the mark MPD for use in connection with bar and restaurant services (“the Services”)
2. The Application was filed by Dual on October 4, 2011 (the “Applicant’s Filing Date) and was based on Dual’s alleged use of the Mark with Applicant’s Services on or before December 21, 2009 (the “Applicant’s Alleged First Use Date”).

3. The Mark was published for opposition in the *Official Gazette* on March 13, 2012.
4. Opposers are owners and operators of a restaurant known as “MPD” located at 73 Gansevoort Street, New York NY (the “Restaurant”).
5. The Applicant is a company consisting of 3 members: Michael Weinstein, Derek Koch and Daniel Koch, which is in the business of promoting restaurants in the city of New York. The Applicant was engaged by the Opposers to promote their restaurant in June 2009. Notably, In 2009 and part of 2010 the restaurant at subject location was operated under name “LOS DADOS” which proved economically unsuccessful.
6. The Applicant’s promotional relations were terminated in January 2012 because of alleged gross negligence, recklessness and misconduct leading to liquor license revocation proceedings commenced by the New York State Liquor Authority.
7. The Mark was first created by Opposers, not the Applicant on or about March, 2010. Opposers, restaurant owners, created all aspects of the Mark, including its logo, design, furniture, menu décor and all other methods of operation comprising the Services.
8. Opposers likewise completely funded the establishment of the Mark and its operation, to date expanding approximately \$2,000,000.00 on account thereof.
9. There was absolutely no prior use of the Mark prior to its creation by Opposers.
10. Presently the parties are involved in litigation over the subject trademark in the United States District Court, Southern District of New York under the Case No: 12 CIV 1031.
11. Applicant did not rightfully own the Mark at the time the application was filed; lacked bona fide commercial use prior to filing use-based application; and would dilute Opposer’s Mark. Opposer’s opposition is based on (1) Section 2(d) of the Act, 15 U.S.C. §1052(d); Section 2(a) of the Act, 15 U.S.C. § 1052(a) *Applicant’s Mark falsely suggests a connection with Opponents’ name or identity*; Section (7) of 1(a) of the Act, 15 U.S.C.

1051(a) *Applicant is not (and was not at the time of filing its application for registration)
the rightful owner of the mark.*

12. A fee of \$600.00 is submitted simultaneously with this Notice of Opposition.

Dated: March 16, 2012

Alexander Karasik, Esq.
Karasik Law Group, P.C.
Attorney for the Opposers
65 Broadway, Seventh Floor
New York, NY 10006

/s/ Alexander Karasik

Alexander Karasik, Esq.