

ESTTA Tracking number: **ESTTA634264**

Filing date: **10/21/2014**

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	The Co-Executors of the Michael J. Jackson Estate		
Entity	Estate	Citizenship	California
Address	1801 Century Park West Los Angeles, CA 90067-6406 UNITED STATES		

Attorney information	Joel R. Feldman and Jeffrey M. Smith Greenberg Traurig, LLP 3333 Piedmont Rd, NE Suite 2500 Atlanta, GA 30305 UNITED STATES atltrademark@gtlaw.com, feldmanjoel@gtlaw.com Phone:6785534778		
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Applicant Information

Application No	86286130	Publication date	10/14/2014
Opposition Filing Date	10/21/2014	Opposition Period Ends	11/13/2014
Applicant	GourmetGiftBaskets.com, Inc. 266 Route 125 Kingston, NH 03848 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 2012/03/27 First Use In Commerce: 2012/03/27 All goods and services in the class are opposed, namely: Flavor-coated popped popcorn; Popped popcorn

Applicant Information

Application No	86286153	Publication date	10/14/2014
Opposition Filing Date	10/21/2014	Opposition Period Ends	11/13/2014
Applicant	GourmetGiftBaskets.com, Inc. 266 Route 125 Kingston, NH 03848 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Flavor-coated popped popcorn; Popped popcorn

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Related Proceedings	Opposition No. 91212921
Attachments	131680900_1 (2).pdf(166755 bytes)

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	/jrf/
Name	Joel R. Feldman, Esq.
Date	10/21/2014

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

In the Matter of Application Serial No. 86/286,130: KINGOFPOP.COM & Design
Published in the *Official Gazette* on October 14, 2014

In the Matter of Application Serial No. 86/286,153: KINGOFPOP & Design
Published in the *Official Gazette* on October 14, 2014

THE CO-EXECUTORS)	
OF THE MICHAEL J. JACKSON)	
ESTATE,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
GOURMETGIFTBASKETS.COM,)	
INC.,)	
)	
Applicant.)	
)	

CONSOLIDATED NOTICE OF OPPOSITION

Opposer the Co-Executors of the Michael J. Jackson Estate (the “Estate”) opposes GourmetGiftBaskets.com, Inc.’s U.S. Application Serial Nos. 86/286,130 and 86/286,153 (the “Applications”) because the Estate will be damaged by the registration of the Applications.

The grounds for opposition are:

OPPOSER’S BACKGROUND

1. Michael Jackson is an internationally-known musician.
2. Michael Jackson is an internationally-known performer.
3. Michael Jackson began his career in 1964 as a member of The Jackson 5. In 1979, Michael Jackson began his highly-successful 35-year solo career.
4. Under the nickname “King of Pop,” Michael Jackson achieved worldwide fame

and recognition.

5. The term “King of Pop” is recognized throughout the United States as uniquely and unmistakably identifying Michael Jackson.

6. Under California probate law, the Estate is the successor-in-interest to Michael Jackson’s personality rights.

APPLICANT’S BACKGROUND

7. In Application Serial No. 86/286,130, Applicant seeks to register KINGOFPOP.COM & Design in International Class 30 for flavor-coated popped popcorn; popped popcorn (the “Goods”).

8. Applicant filed Application Serial No. 86/286,130 on May 20, 2014 based on Applicant’s alleged use of the applied-for KINGOFPOP.COM & Design mark in interstate commerce.

9. In Application Serial No. 86/286,153, Applicant seeks to register KINGOFPOP & Design in International Class 30 for the Goods.

10. Applicant filed Application Serial No. 86/286,153 on May 20, 2014 based on Applicant’s alleged intent to use the applied-for KINGOFPOP & Design mark.

COUNT I **FALSE SUGGESTION OF A CONNECTION**

11. Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), prohibits registration on the Principal Register of a mark that falsely suggests a connection with persons, living or dead.

12. The nickname “King of Pop” is so uniquely and unmistakably associated with Michael Jackson that it is Michael Jackson’s name or identity.

13. KINGOFPOP and KINGOFPOP.COM are the same as, or close approximations of, “King of Pop.”

14. The Estate is not connected with Applicant or Applicant's Goods.

15. The Estate has not consented to Applicant's registration of KINGOFPOP or KINGOFPOP.COM as a United States trademark.

16. Michael Jackson and his "King of Pop" nickname are so famous that consumers will presume that Applicant's Goods are connected to the Estate.

17. Applicant's KINGOFPOP & Design and KINGOFPOP.COM & Design marks falsely suggest a connection with Michael Jackson and the Estate.

18. Applicant intentionally selected its KINGOFPOP & Design and KINGOFPOP.COM & Design marks to refer to Michael Jackson and to trade off of the substantial goodwill and recognition that Michael Jackson has accrued in the "King of Pop" nickname.

CONCLUSION

19. The Estate requests that this opposition be sustained and registration of Application Serial Nos. 86/286,130 and 86/286,153 be refused.

Date: October 21, 2014

Respectfully submitted,
GREENBERG TRAURIG LLP



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*Attorneys for Opposer
The Co-Executors of the Michael J.
Jackson Estate*

CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this Consolidated Notice of Opposition is being transmitted electronically to the Trademark Trial and Appeal Board of the United States Patent & Trademark Office on October 21, 2014, through the ESTTA electronic filing system at the web site <http://estta.uspto.gov/>.



Joel R. Feldman, Esq.

CERTIFICATE OF SERVICE

I certify that on October 21, 2014, I served the foregoing Consolidated Notice of Opposition by First-Class mail in a sealed envelope to:

Daniel J. Bourque
Bourque & Associates P.A.
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Manchester, NH 03104-5401



Joel R. Feldman, Esq.