

Family Marks”). Opposer’s FRIDAY’S mark, T.G.I. FRIDAY’S mark, and the Fridays Family Marks, identified in paragraphs 1-3 herein, are hereinafter collectively referred to as Opposer’s “FRIDAYS Marks.”

4. Opposer’s FRIDAYS Marks constitute a family of marks. The FRIDAYS Marks are used and promoted together, and are used on or in connection with identical, related or complementary goods and services. When used with such goods and services, relevant consumers recognize and rely upon Opposer’s FRIDAYS Marks as an indicator of origin.

5. There are over 550 restaurants branded under the FRIDAYS Marks in the United States. Each of these restaurants prominently features a bar where beer and other alcoholic beverages are served.

6. Friday’s had over \$8 billion in sales in the United States under the FRIDAYS Marks during the 2009-2014 time period.

7. In addition, Friday’s licensees distribute or have distributed pre-mixed alcoholic beverages, malt-based alcoholic beverages, and similar beverage products nationwide under the FRIDAYS Marks. During the 2010-2015 time period, Friday’s licensees had over \$15 million in sales of these products.

8. Opposer has long been associated with bar services, bartending, and alcoholic beverages, such as beer. In 1965, Alan Stillman, an unmarried New York City perfume salesman, decided that the coolest way to meet people was to open a bar. He then purchased a broken down beer joint that he frequented and jazzed it up to attract young professionals.

9. Friday’s barmen are well-known for “flairing,” which is a skill that involves a barman doing tricks with bottles, glasses and shakers, etc. This practice was made famous by the film “Cocktail”, which was released in the United States in 1988 and starred Tom Cruise as a

barman at a T.G.I. FRIDAY'S restaurant. The first Friday's Restaurant was the location featured in the film. A bartender previously employed by Friday's trained Tom Cruise for the motion picture. The exterior of that Friday's Restaurant, including the signage, and the interior décor of the Friday's Restaurant can be seen on a number of occasions in that motion picture, and the film set for the interior incorporated the Opposer's distinctive décor. Further, the waitstaff portrayed in that motion picture wore the red and white striped uniforms typical of a Friday's Restaurant.

10. In about 1985, the first "flair" bartending competition was held by T.G.I. Friday's in Marina del Rey, California. In 1991, T.G.I. Friday's started the global competition called the World Bartender Championship (WBC), which receives widespread exposure. Thousands of bartenders from all over the world compete for the title each year. The WBC represents Friday's longstanding heritage, knowledge, expertise and innovation in the alcoholic beverage industry. It has grown into a widely-known and popular representation of the FRIDAYS Marks and of the world-class bartenders associated with Friday's.

11. Friday's has invested many millions of dollars for more than four decades in advertising and promoting its FRIDAYS Marks and the goods and services sold under those marks, with the result that the purchasing public in the United States has come to know, rely upon, and recognize the goods and services of Friday's by those marks. Friday's has established valuable goodwill in its FRIDAYS Marks. The FRIDAYS Marks have become well known to members of the relevant consumer groups.

12. During the 2009-2014 time period, Friday's spent more than \$330,000,000 on advertising its FRIDAYS Marks and the goods and services sold under them in the U.S.

13. Through Friday's extensive use and promotion of its FRIDAYS Marks, these marks have become famous and consumers in the United States have come to recognize the marks as

such, and to associate the marks uniquely with Friday's and its goods and services. In addition to its extensive common law rights, Friday's owns numerous federal trademark registrations for its FRIDAYS Marks, including the following, by way of example only: 1,417,077 for T.G.I. FRIDAY'S, 1,760,170 for T.G.I. FRIDAY'S and Design, 3,477,910 for T.G.I. FRIDAY'S and Design, 1,902,042 for T.G.I. FRIDAY'S and Design, 925,656 for T.G.I. FRIDAY'S, 977,903 for FRIDAY'S, 1,988,317 for FRIDAY'S FRONT ROW SPORTS GRILL and Design, 2,659,071 for FRIDAY'S FRONT ROW SPORTS GRILL and Design, 2,120,962 for IN HERE, IT'S ALWAYS FRIDAY, 1,203,225 for FAST FRIDAYS, 2,963,202 for T.G.I. FRIDAY'S and Design, 3,437,060 for GIVE ME MORE FRIDAY'S, 1,778,205 for T.G.I. FRIDAY'S Stylized, 3,259,361 for FRIDAY'S FRONT ROW SPORTS GRILL and Design, 3,133,940 for EVERYONE COULD USE MORE FRIDAY'S, 3,887,359 for THANK GOD IT'S FRIDAY'S, 4,544,761 for TGI FRIDAYS and Design, and 4,681,669 for FRIDAYS and Design. Each of these registrations is valid and subsisting, and Registration Nos. 1,417,077, 1,760,170, 3,477,910, 1,902,042, 925,656, 977,903, 1,988,317, 2,659,071, 2,120,962, 1,203,225, 2,963,202, 3,437,060, 1,778,205, 3,259,361, and 3,133,940 are incontestable under 15 U.S.C. § 1065.

14. Applicant Intelligentfood Holding AG ("Applicant") is a Swiss corporation with an address of Pilatusstrasse 18, Luzern, Switzerland 6003.

15. Applicant is the owner of Serial No. 86/426,498 for the word mark FRIDAY BEER, for "Beer; Non-alcoholic beer flavored beverages; Non-alcoholic beverages containing fruit juices; Non-alcoholic malt beverage" in Class 32 ("FRIDAY BEER Mark"). The application was filed on October 17, 2014 under Section 44(e), and the application was published for opposition on August 25, 2015.

16. Opposer's first use in commerce of its FRIDAYS Marks long precedes the filing date of Application Serial No. 86/426,498 for the FRIDAY BEER Mark and any other priority date that Applicant may be able to establish for the FRIDAY BEER Mark.

17. Opposer's FRIDAYS Marks became famous long prior to Applicant's filing date and any other priority date that Applicant may be able to establish for the FRIDAY BEER Mark.

18. The FRIDAY BEER Mark is confusingly similar to Applicant's FRIDAYS Marks.

19. The FRIDAY BEER Mark consists solely of the term FRIDAY, combined with the descriptive, if not generic, term "beer" (as evidenced by the Application's disclaimer of this term).

20. Opposer's FRIDAYS Marks are of sufficient fame and reputation among consumers that when the FRIDAY BEER Mark is used for the goods identified in the Application, a connection with Opposer would be presumed.

21. Opposer has not given Applicant permission or approval to use or register the FRIDAY BEER Mark.

22. The FRIDAY BEER Mark so resembles Opposer's FRIDAYS Marks as to be likely, when used on or in connection with the goods identified in the Application, to cause confusion, or to cause mistake, or to deceive. Purchasers and prospective purchasers are likely to mistakenly believe that the goods Applicant offers under the FRIDAY BEER Mark are produced, sponsored, endorsed, or approved by Opposer, or are in some way affiliated, connected, or associated with Opposer or its goods and services. Registration should therefore be refused under 15 U.S.C. § 1052(d).

23. The FRIDAY BEER Mark is likely to cause dilution by blurring of Opposer's famous FRIDAYS Marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and registration should therefore be refused.

24. Registration of the FRIDAY BEER Mark would be inconsistent with Opposer's rights under the aforementioned registrations and common law and would be damaging to Opposer.

WHEREFORE, Opposer prays that U.S. Serial No. 86/426,498 be rejected, and that registration of the mark therein be refused.

Due to the outage of the ESTTA system on December 23, 2015, this Notice of Opposition is being filed via Express Mail in accordance with 37 C.F.R. § 2.198, along with the filing fee required by 37 C.F.R. § 2.6(a)(18). The Commissioner is authorized to draw on the Deposit Account of Pirkey Barber PLLC, Account No. 50-3924/TGIF920/STV, if there is any problem with the processing of the submitted fee. Pursuant to 37 C.F.R. § 195(a)(4), this Notice of Opposition filed in accordance with 37 C.F.R. § 2.198 should be given the filing date of December 23, 2015, which is date of deposit as "Express Mail" with the United States Postal Service.

Respectfully submitted,



Date: December 23, 2015

Stephen P. Meleen
smeleen@pirkeybarber.com
Shannon T. Vale
svale@pirkeybarber.com
Alison D. Frey
afrey@pirkeybarber.com
tmcentral@pirkeybarber.com
PIRKEY BARBER PLLC
600 Congress Avenue, Suite 2120
Austin, Texas 78701
(512) 322-5200

ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was served via First Class Mail, postage prepaid, on Applicant's attorney of record at the address below, on December 23, 2015.

Jeremy V. Kilburn
Preston & Malcom, PC
110 Court St
Monroe, GA 30655-1633


