

# TTAB

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451



02-03-2006

US Patent & TMO/TM Mail Rpt Dt #11

Mailed: January 10, 2006

Opposition No 91168495  
Serial No. 78594832

MICHAEL UTILLA  
UTILLA & ASSOC  
32 COURT ST STE 1800  
BROOKLYN, NY 11201

Barry D. Sears

v.

ZoneChefs, L.L.C.

Amy B. Spagnole  
HINCKLEY ALLEN & SNYDER LLP  
28 State Street  
Boston, MA 02109

**Helen Johnson, Legal Assistant**

A notice of opposition to the registration sought in the above-identified application has been filed. The notice of opposition can be viewed and printed at <http://ttabvue.uspto.gov/>

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof.  
(See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12,

2003). Notices concerning the rules changes, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), are available at [www.uspto.gov/web/offices/dcom/ttab/](http://www.uspto.gov/web/offices/dcom/ttab/).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

**Discovery and testimony periods are set as follows:**

Discovery period to open:	January 30, 2006
Discovery period to close:	July 29, 2006
30-day testimony period for party in position of plaintiff to close:	October 27, 2006
30-day testimony period for party in position of defendant to close:	December 26, 2006
15-day rebuttal testimony period for plaintiff to close:	February 09, 2007

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may

be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>

**HinckleyAllenSnyderLLP**  
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December 30, 2005

**VIA FIRST CLASS MAIL**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: Notice of Opposition  
of United States Trademark  
Application No.: 78/594,832  
Applicant: ZoneChefs LLC  
Mark: VEGGIEZONE  
Class: 39



01-03-2006

U.S. Patent & TMO/TM Mail Rpt Dt. #11

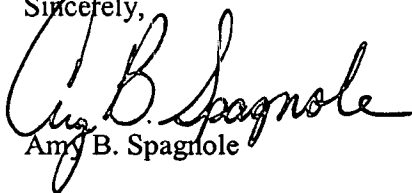
Dear Madam:

The following documents are submitted in connection with U.S. Application Serial No. 78/594,832, filed by ZoneChefs LLC, for the mark VEGGIEZONE in International Class 39 on the Principal Register:

1. Notice of Opposition With Exhibits 1-9;
2. Opposition fee, \$300.00, by check No. 68555 for 1 class;
3. Certificate of Mailing dated December 30, 2005; and
4. Authorization to charge Deposit Account.

The Commissioner is authorized to charge any additional needed fees and to credit any overpayments to Account No. 50-0485, Hinckley Allen & Snyder LLP.

Sincerely,



Amy B. Spagnole

Enclosures

cc: Deborah L. Benson (w/o Encl.)

565049

1500 Fleet Center, Providence, RI 02903-2393 TEL: 401.274.2000 FAX: 401.277.9600

TTAB

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

BARRY D. SEARS Ph.D.,

Opposer,

v.

ZONECHEFS, LLC,

Applicant.



01-03-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Opposition No. \_\_\_\_\_

Mark: VEGGIEZONE

Serial No.: 78/594,832

Class: 39

NOTICE OF OPPOSITION

Barry D. Sears, Ph.D., a United States citizen, with an address of 222 Rosewood Drive, Suite 500, Danvers, Massachusetts 01923 (hereafter "Opposer" or "Dr. Sears") believes that he will be damaged by registration of the mark shown in Application Serial No. 78/594,832 for the mark VEGGIEZONE for "food delivery services," in International Class 39 on the Principal Register filed on March 24, 2005 by Zone Chefs, LLC, a New York limited liability company with an address of 8608 Foster Avenue, Brooklyn, New York 11236, and hereby opposes the same. As grounds for this opposition, Opposer alleges as follows:

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FACTS

1. Opposer is the owner of the trademark ZONE and other marks incorporating ZONE for health and nutrition products and services.
2. Since 1995, Opposer has used the trademark ZONE and composite marks, all incorporating ZONE as the dominant portion thereof, such as ZONE LABS,

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