

registration.

The applicant in Trademark Application Serial No. 78/015,331 is Productos Alimenticios Bocadeli, S.A. DE C.V. (hereinafter "Bocadeli"), which on information and belief is an El Salvador corporation located and doing business in Soyapango, El Salvador. Bocadeli seeks registration of the mark UFO BAKED BOCA DELI PRODUCTS & Design for use in connection with the following goods.

IC 029. US 046. G & S: meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk, and milk products; namely half and half, condensed milk, and whipping cream

IC 030. US 046. G & S: coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, honey, treacle; yeast, baking-powder; salt, mustard; vinegar, spices; ice

The mark was published on page TM 234 of the Official Gazette dated July 30, 2002, and a copy of the publication is attached as Exhibit A.

The grounds for opposition are as follows.

1. Nissin is one of the prominent prepared food companies in the world. Nissin manufactures and sells instant noodle products, chilled foods, frozen foods, cereals, and instant soups. Nissin sells noodle products under the internationally recognized trademarks UFO and CUP NOODLES.

2. Nissin owns U.S. Trademark Registration No. 2,044,340 for the mark UFO for use in connection with noodles, particularly instant chow mein, and instant stir fried Japanese noodles. A record of the registration is attached as Exhibit B.

3. Nissin has continuously used the mark shown in U.S. Trademark Registration No. 2,044,340 in commerce in the United States since at least as early as October of 1995, and currently is using the mark on or in connection with the goods stated in the registration, namely, noodles, particularly instant chow mein, instant stir fried Japanese noodles. A specimen showing Nissin's UFO mark on packaging for noodle products sold in commerce is attached as Exhibit C.

4. Over the years, Nissin has sold a large volume of its UFO noodle products in the United States, and many more abroad. Through these sales, Nissin has built up significant good will and consumer recognition in the UFO mark. As a result, the UFO mark has become famous throughout the United States and the world.

5. To the best of Nissin's knowledge, no other valid and enforceable U.S. trademark registration exists containing the term UFO, for use in connection with noodle products or other preparations made from cereals.

6. Notwithstanding Nissin's prior use and registration of its UFO mark, on July 3, 2000, Bocadeli filed Trademark Application Ser. No. 78/015,331 to register the following design as a trademark.



7. The design shown above contains the term UFO centered in large white letters against a black background, making the term UFO the most prominent feature

of the design.

8. In its application, Bocadeli indicated that it intended to use its proposed mark in connection with a variety of food products in classes 29 and 30, as listed above, including “preparations made from cereals.” The term “preparations made from cereals” indicates goods that are nearly identical to the goods listed in Nissin’s prior registration, since instant chow mein and instant stir fried Japanese noodles are two types of preparations made from cereals.

9. The use of Bocadeli’s proposed mark shown above in the United States is likely to cause consumer confusion as to the source of Bocadeli products, due to the confusing similarity between the proposed Bocadeli mark and Nissin’s UFO mark, as well as the similarity in the goods on which both marks are used. Therefore, consumers are likely to form the mistaken belief that Bocadeli’s products originated from, are authorized by, or are otherwise associated with Nissin.

10. Registration and continued use of Bocadeli’s mark is likely to cause confusion, mistake, and deception among consumers who are familiar with Nissin’s famous UFO mark. Furthermore, continued use and registration interferes with Nissin’s use of its UFO mark and will seriously damage Nissin.

WHEREFORE, Nissin believes that it will be damaged by registration of Bocadeli’s mark and prays that registration be denied.

The filing fee in the amount of \$600.00 and a duplicate of this Notice of Opposition are enclosed. Please charge Deposit Account No. 11-1540 for any additional

fees that may be required.

EV258766326US

**“Express Mail” Mailing Label No. EV258766326US
Date of Deposit – December 20, 2002**

I hereby certify that the enclosed Notice of Opposition is being deposited with the United States Postal Service “Express Mail Post Office to Addressee” service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Washington, D.C. 20231.


George Painter



Respectfully submitted,

**KOLISCH, HARTWELL, DICKINSON,
McCORMACK & HEUSER**



Mark D. Alleman
Customer No. 23581
Registration No. 42,257
Attorney for Opposer
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679

CERTIFICATE OF SERVICE

I hereby certify that a true copy of this Notice of Opposition was served, via first class mail, on December 20, 2002, to counsel of record in the subject application, Jeffrey N. Aldous, Esq., of Daigle, Sullivan, Dupré & Aldous at 4262 Imperial Way Provo, Utah 84604.



Mark D. Alleman
Customer No. 23581
Registration No. 42,257
Attorney for Opposer
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679

RECEIVED

AUG 05 2002

KOLISCH, HARTWELL, DICKINSON,
McCORMACK & HEUSER

OFFICIAL GAZETTE

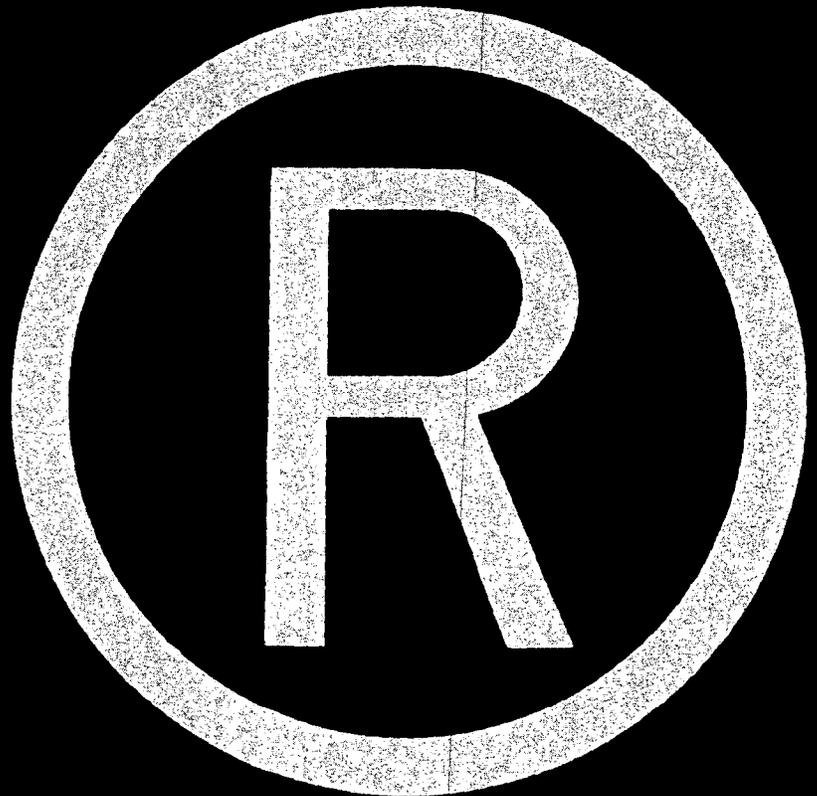
of the
UNITED STATES PATENT AND TRADEMARK OFFICE



Route to:

TRADEMARKS

July 30, 2002



U.S.
DEPARTMENT
OF COMMERCE

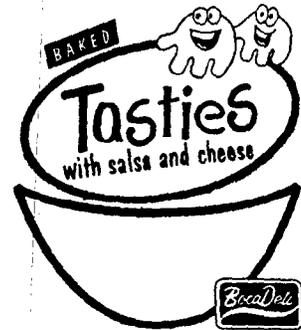
Patent
and
Trademark
Office

PUBLISHED WEEKLY BY AUTHORITY OF CONGRESS

CLASS 40—MATERIAL TREATMENT

FOR TREATMENT OF MATERIALS, NAMELY TEXTILE TREATMENT IN THE NATURE OF PROVIDING A PERMANENT DURABLE PRESS FINISH TO NATURAL FABRICS THROUGH THE APPLICATION OF CHEMICALS, UNPROCESSED ARTIFICIAL RESINS AND/OR UNPROCESSED PLASTICS IN ORDER TO PROVIDE ANTI-WRINKLING, ANTI-SHRINKING, ANTI-PILLING AND ANTI-FADING BENEFITS; AND FINISHING TREATMENT FOR TEXTILES, NAMELY PERMANENT DURABLE PRESS FINISHING PROVIDED TO NATURAL FABRICS THROUGH THE APPLICATION OF CHEMICALS, UNPROCESSED ARTIFICIAL RESINS AND/OR UNPROCESSED PLASTICS IN ORDER TO PROVIDE ANTI-WRINKLING, ANTI-SHRINKING, ANTI-PILLING AND ANTI-FADING BENEFITS (U.S. CLS. 100, 103 AND 106).

SN 78-015,335. PRODUCTOS ALIMENTICIOS BOCADELI S.A. DE C.V., SOYAPANGO, EL SALVADOR, FILED 7-3-2000.



SN 78-015,331. PRODUCTOS ALIMENTICIOS BOCADELI, S.A. DE C.V., SOYAPANGO, EL SALVADOR, FILED 7-3-2000.



NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BAKED" AND "QUALITY PRODUCTS", APART FROM THE MARK AS SHOWN.

CLASS 29—MEATS AND PROCESSED FOODS

FOR MEAT, FISH, POULTRY AND GAME; MEAT EXTRACTS; PRESERVED, DRIED AND COOKED FRUITS AND VEGETABLES; JELLIES, JAMS, FRUIT SAUCES; EGGS, MILK, AND MILK PRODUCTS; NAMELY HALF AND HALF, CONDENSED MILK, AND WHIPPING CREAM (U.S. CL. 46).

CLASS 30—STAPLE FOODS

FOR COFFEE, TEA, COCOA, SUGAR, RICE, TAPIOCA, SAGO, ARTIFICIAL COFFEE; FLOUR AND PREPARATIONS MADE FROM CEREALS, BREAD, PASTRY AND CONFECTIONERY; HONEY, TREACLE; YEAST, BAKING-POWDER; SALT, MUSTARD; VINEGAR, SPICES; ICE (U.S. CL. 46).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "WITH SALSA AND CHEESE", "BAKED" AND "QUALITY PRODUCTS", APART FROM THE MARK AS SHOWN.

CLASS 29—MEATS AND PROCESSED FOODS

FOR MEAT, POULTRY AND GAME; MEAT EXTRACTS; PRESERVED, DRIED AND COOKED FRUITS AND VEGETABLES; JELLIES, JAMS, FRUIT SAUCES; EGGS, MILK PRODUCTS NAMELY HALF AND HALF, CONDENSED MILK AND WHIPPING CREAM EDIBLE OILS AND FATS (U.S. CL. 46).

CLASS 30—STAPLE FOODS

FOR COFFEE, TEA, COCOA, SUGAR, RICE, TAPIOCA, SAGO, ARTIFICIAL COFFEE; FLOUR AND PREPARATIONS MADE FROM CEREALS, BREAD, PASTRY AND CONFECTIONERY; HONEY, TREACLE; YEAST, BAKING-POWDER; SALT, MUSTARD; VINEGAR, SPICES; ICE (U.S. CL. 46).

SN 78-015,467. RELERA, INC., DENVER, CO. BY CHANGE OF NAME MAINSTREET HOSTING, INC., ENGLEWOOD, CO. FILED 7-5-2000.

RELERA

CLASS 38—COMMUNICATION

FOR PROVIDING DATA CENTER CUSTOMERS WITH TELECOMMUNICATION CONNECTIONS TO A GLOBAL COMPUTER NETWORK (U.S. CLS. 100, 101 AND 104).

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,044,340

United States Patent and Trademark Office

Registered Mar. 11, 1997

**TRADEMARK
PRINCIPAL REGISTER**

UFO

NISSIN SHOKUHIN KABUSHIKI KAISHA
(JAPAN CORPORATION), DBA NISSIN FOOD
PRODUCTS CO., LTD.,
1-1 NISHINAKAJIMA 4-CHOME, YODOGAWA-
KU
OSAKA, JAPAN

FOR: NOODLES, PARTICULARLY INSTANT
CHOW MEIN, INSTANT STIR FRIED JAPA-
NESE NOODLES, IN CLASS 30 (U.S. CL. 46).
FIRST USE 10-0-1995; IN COMMERCE
10-0-1995.

SN 74-592,445, FILED 10-31-1994.

JERRY I. PRICE, EXAMINING ATTORNEY



Exhibit C