

ESTTA Tracking number: **ESTTA211783**

Filing date: **05/15/2008**

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 parties oppose registration of the indicated application.

**Opposers Information**

Name	Rudolf Wild GmbH & Co. KG
Granted to Date of previous extension	06/01/2008
Address	Rudolf-Wild Strasse 107-115 Eppelheim, D-69214 GERMANY

Name	WILD Flavors, Inc.
Granted to Date of previous extension	06/01/2008
Address	1261 Pacific Avenue Erlanger, KY 41018 UNITED STATES

Attorney information	Laura Goldbard George Stroock & Stroock & Lavan LLP 180 Maiden Lane New York, NY 10038-4982 UNITED STATES lgoldbard@stroock.com, afisher@stroock.com, tm@stroock.com Phone:212-806-6675
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**Applicant Information**

Application No	77192274	Publication date	12/04/2007
Opposition Filing Date	05/15/2008	Opposition Period Ends	06/01/2008
Applicant	Wild Rocket Foods LLC Suite 220 1650 Spruce Street Riverside, CA 92507 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 029. All goods and services in the class are opposed, namely: Snack food dips; dips; snack dips; fruit dips; vegetable dips; prepared vegetables; prepared fruits; fruit and vegetable salads; garden salads;dried fruit; and dried vegetables
Class 030. All goods and services in the class are opposed, namely: Salsa, beverages made of tea; macaroni salad; pasta salad; herb tea for food purposes; fruit teas; flavoring of tea; tea; tea bags; and iced tea
Class 031.

All goods and services in the class are opposed, namely: Fresh vegetables; raw vegetables; unprocessed vegetables; fresh fruits; fruits, namely, fresh, raw and prepared; fresh vegetables, namely, fresh, raw and prepared; and unprocessed fruits

Class 032.

All goods and services in the class are opposed, namely: Fruit juice; fruit juice concentrates; fruit juice beverages; juice base concentrates; non-alcoholic fruit juice beverages; vegetable juice; vegetable juice concentrates; vegetable juice beverages; non-alcoholic vegetables juice beverages; and non-alcoholic beverages with tea flavor

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1296602	Application Date	04/22/1983
Registration Date	09/18/1984	Foreign Priority Date	NONE
Word Mark	WILD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1982/10/08 First Use In Commerce: 1983/01/13 Fruit Based Liquid Ingredient for Use in the Preparation of Other Foods		

U.S. Registration No.	1586995	Application Date	03/08/1989
Registration Date	03/13/1990	Foreign Priority Date	NONE
Word Mark	WILD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1984/05/29 First Use In Commerce: 1984/05/29 FOOD FLAVORING, NAMELY, FLAVORS [ , AROMAS, ESSENCES AND DISTILLATES, ] NOT IN THE NATURE OF ESSENTIAL OILS Class 032. First use: First Use: 1984/05/29 First Use In Commerce: 1984/05/29 FLAVORS, [ AROMAS, ESSENCES AND DISTILLATES, ] NOT IN THE NATURE OF ESSENTIAL OILS FOR THE PREPARATION OF SOFT DRINKS		

Attachments	73785403#TMSN.gif ( 1 page )( bytes ) Opposition WILD ROCKET.pdf ( 14 pages )(373870 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 Facsimile or email (by agreement only) on this date.

Signature	/laura goldbard george/
Name	Laura Goldbard George
Date	05/15/2008



damaged by registration of the mark WILD ROCKET shown in Application Serial No. 77/192,274 (“Application”) and hereby oppose registration of same.

1. For many years prior to the filing of the Application, Opposers have been using the trademarks WILD, WILD & Design and composite marks containing the term “WILD” therein in foreign commerce with the United States and interstate commerce within the United States in connection with flavors, aromas, essences and distillates used in the preparation of foods and soft drinks and beverages of various kinds and for fruit based liquid ingredients for use in the preparation of other foods and beverages.

2. Rudolf Wild is the owner of U.S. Registration No. 1,296,602 issued on September 18, 1984 for the mark WILD for fruit based liquid ingredient for use in the preparation of other foods. This registration is valid and subsisting, in full force and effect and incontestable. A copy of the TARR record of Registration No. 1,296,602 is annexed hereto as Exhibit 1.

3. Rudolf Wild is the owner of U.S. Registration No. 1,586,995 issued on March 13, 1990 for the mark WILD & Design for food flavoring not in the nature of essential oils and for flavors, not in the nature of essential oils for the preparation of soft drinks. This registration is valid and subsisting, in full force and effect and incontestable. A copy of the TARR record of Registration No. 1,586,995 is annexed hereto as Exhibit 2.

4. By reason of extensive distribution, sale and promotion of Opposers’ goods in and throughout the United States, Rudolf Wild’s marks WILD and WILD & Design have acquired substantial goodwill, distinctiveness, secondary meaning and fame as indicating a line of flavors, aromas, essences, and distillates used in the preparation of soft drinks and foods, seasonings, sauces, salad dressings, marinades and fruit-based liquid ingredients for use in foods having their origin exclusively with Rudolf Wild.

5. On May 29, 2007, Applicant, Wild Rocket Foods LLC, filed Application Serial No. 77/192,274 for the mark WILD ROCKET for snack food dips; dips; snack dips; fruit dips; vegetable dips; prepared vegetables; prepared fruits; fruit and vegetable salads; garden salads; dried fruit; and dried vegetables, in Class 29; salsa beverages made of tea; macaroni salad; pasta salad; herb tea for food purposes; fruit teas; flavoring of tea; tea; tea bags; and iced tea, in Class 30; fresh vegetables; raw vegetables; unprocessed vegetables; fresh fruits; fruits namely, fresh, raw and prepared; fresh vegetables, namely, fresh, raw and prepared; and unprocessed fruits, in Class 31; and fruit juice; fruit juice concentrates; fruit juice beverages; juice base concentrates; non-alcoholic fruit juice beverages; vegetable juice; vegetable juice concentrates; vegetable juice beverages; non-alcoholic vegetables juice beverages; and non-alcoholic beverages with tea flavor, in Class 32 (the “Goods”).

6. Applicant’s mark is likely to cause confusion with Opposers’ marks. The mark sought to be registered, namely, WILD ROCKET contains the word “WILD.” Thus, Opposers’ entire mark is subsumed in Applicant’s mark.

7. The Goods in the Application are closely related to Opposers’ goods. Applicant’s mark is for a variety of food products including flavors, concentrates, as well as products in which Opposers’ goods are included. Opposers’ goods consist of ingredients and flavors used to develop and design foods such as beverages, salsa, snacks, dips, as well as beverages, beverage flavorings and concentrates. Thus, Applicant’s Goods are closely related to Opposers’ goods, as Opposers’ goods are the type that could be used to create Applicant’s Goods. As Opposers’ and Applicant’s goods are closely related, there is a likelihood that consumers would be confused because the respective goods are or will be sold under confusingly similar marks.

**COUNT I**  
**LIKELIHOOD OF CONFUSION**

8. Opposers repeat and re-allege the allegations in Paragraphs 1 through 7 as fully set forth herein.

9. In view of the confusing similarity of Applicant's trademark and Goods, Applicant's use and registration of the mark WILD ROCKET is likely to cause confusion, mistake and deceive the trade and public into believing that Applicant's Goods originate with or are otherwise licensed, sponsored or authorized by Opposers.

10. The use and registration of the mark WILD ROCKET by Applicant is likely to damage and destroy the distinctiveness, goodwill, reputation, secondary meaning and fame created and established by Rudolf Wild in its WILD and WILD & Design marks by virtue of the confusion, mistake and deception likely to occur between the respective marks in derogation of Opposers' exclusive right to continue to use the registered marks for its present goods and to expand the use of its marks to related goods and services.

11. By reason of all the foregoing, Opposers will be gravely damaged by the registration of the mark WILD ROCKET for the Goods identified in the Application.

**COUNT II**  
**DILUTION**

12. Opposers repeat and re-allege the allegations contained in Paragraphs 1-7 and 9-11 as fully set forth herein.

13. Rudolf Wild's WILD and WILD & Design marks are famous and the use and registration of Applicant's mark WILD ROCKET is likely to dilute the distinctive quality of

such famous marks pursuant to 15 U.S.C. §1125(c), which is applicable in an opposition proceeding.

14. By reason of all the foregoing, Opposers will be gravely damaged by the registration of the mark WILD ROCKET for the Goods identified in the Application.

WHEREFORE, by reason of the confusing similarity of Applicant's and Opposers' marks and the likelihood that Applicant's mark will dilute Opposers' mark, Opposers respectfully requests that the opposition be sustained and that registration of the mark WILD ROCKET be refused.

Dated: New York, New York  
May 15, 2008

Respectfully submitted,

STROOCK & STROOCK & LAVAN LLP  
Attorneys for Opposers  
180 Maiden Lane  
New York, New York 10038-4982  
(212) 806-5400

By   
Laura Goldbard George

***EXHIBIT 1***

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2008-04-17 15:45:29 ET**

**Serial Number:** 73422717 [Assignment Information](#)      [Trademark Document Retrieval](#)

**Registration Number:** 1296602

**Mark (words only):** WILD

**Standard Character claim:** No

**Current Status:** This registration has been renewed.

**Date of Status:** 2004-10-26

**Filing Date:** 1983-04-22

**Transformed into a National Application:** No

**Registration Date:** 1984-09-18

**Register:** Principal

**Law Office Assigned:** (NOT AVAILABLE)

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2004-11-01

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. RUDOLF WILD GMBH & CO. KG

**Address:**

RUDOLF WILD GMBH & CO. KG

Rudolf-Wild-Strasse 107-115

Eppelheim D-69214

Fed Rep Germany

**Legal Entity Type:** Limited Partnership

**State or Country Where Organized:** Fed Rep Germany

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**GOODS AND/OR SERVICES**

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**International Class:** 029

**Class Status:** Active

Fruit Based Liquid Ingredient for Use in the Preparation of Other Foods

**Basis:** 1(a)

**First Use Date:** 1982-10-08

**First Use in Commerce Date:** 1983-01-13

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**ADDITIONAL INFORMATION**

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(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2006-03-24 - Applicant/Correspondence Changes (Non-Responsive) Entered

2006-03-24 - TEAS Change Of Owner Address Received

2004-10-26 - First renewal 10 year

2004-10-26 - Section 8 (10-year) accepted/ Section 9 granted

2004-09-10 - Combined Section 8 (10-year)/Section 9 filed

2004-09-10 - TEAS Section 8 & 9 Received

2002-09-19 - Counter claim opp. for Proceeding No.

2000-06-02 - Section 15 acknowledged

2000-02-07 - Section 15 affidavit received

1990-12-13 - Section 8 (6-year) accepted

1990-08-28 - Section 8 (6-year) filed

1984-09-18 - Registered - Principal Register

1984-07-10 - Published for opposition

1984-05-16 - Notice of publication

1984-03-26 - Approved for Pub - Principal Register (Initial exam)

1984-03-22 - Examiner's amendment mailed

1984-03-19 - Assigned To Examiner

1984-03-01 - Communication received from applicant

1984-01-05 - Non-final action mailed

1983-12-02 - Assigned To Examiner

1983-08-01 - Applicant amendment prior to exam entered

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

LAURA E GOLDBARD

**Correspondent**

Laura E. Goldbard  
Stroock & Stroock & Lavan LLP  
180 Maiden Lane  
New York NY 10038  
Phone Number: 212-806-5400  
Fax Number: 212-806-6006

**Domestic Representative**

BLUM KAPLAN

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## ***EXHIBIT 2***

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2008-04-17 15:45:59 ET**

**Serial Number:** 73785403 Assignment Information      Trademark Document Retrieval

**Registration Number:** 1586995

**Mark**



**(words only):** WILD

**Standard Character claim:** No

**Current Status:** This registration has been renewed.

**Date of Status:** 2000-03-14

**Filing Date:** 1989-03-08

**Transformed into a National Application:** No

**Registration Date:** 1990-03-13

**Register:** Principal

**Law Office Assigned:** (NOT AVAILABLE)

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2004-04-07

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. RUDOLF WILD GMBH & CO. KG

**Address:**

RUDOLF WILD GMBH & CO. KG  
Rudolf-Wild-Strasse 107-115  
Eppelheim D-69214  
Fed Rep Germany

**Legal Entity Type:** LIMITED LIABILITY PARTNERSHIP

State or Country Where Organized: Fed Rep Germany

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**GOODS AND/OR SERVICES**

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**International Class:** 030

**Class Status:** Active

FOOD FLAVORING, NAMELY, FLAVORS NOT IN THE NATURE OF ESSENTIAL OILS

**Basis:** 1(a)

**First Use Date:** 1984-05-29

**First Use in Commerce Date:** 1984-05-29

**International Class:** 032

**Class Status:** Active

FLAVORS, NOT IN THE NATURE OF ESSENTIAL OILS FOR THE PREPARATION OF SOFT DRINKS

**Basis:** 1(a)

**First Use Date:** 1984-05-29

**First Use in Commerce Date:** 1984-05-29

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**ADDITIONAL INFORMATION**

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**Design Search Code(s):**

**01.15.08** - Raindrop (a single drop); Single drop (rain, tear, etc.); Teardrop (a single drop)

**05.13.25** - Bales of hay or straw; Hay in bales; Other plants including bales of hay or straw; Straw in bales

**27.03.04** - Plants forming letters or numerals

**Prior Registration Number(s):**

1372837

1390182

1396602

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2006-03-24 - Applicant/Correspondence Changes (Non-Responsive) Entered

2006-03-24 - TEAS Change Of Owner Address Received

2002-09-19 - Counter claim opp. for Proceeding No.

2001-03-29 - Section 7 correction issued

2001-03-14 - Section 7 amendment filed

2000-03-14 - First renewal 10 year

## Latest Status Info

2000-03-14 - Section 9 granted/check record for Section 8  
1999-10-29 - Combined Section 8 (10-year)/Section 9 filed  
1996-07-16 - Section 8 (6-year) accepted & Section 15 acknowledged  
1996-03-13 - Section 8 (6-year) and Section 15 Filed  
1990-03-13 - Registered - Principal Register  
1989-12-19 - Published for opposition  
1989-12-19 - Published for opposition  
1989-11-18 - Notice of publication  
1989-10-13 - Approved for Pub - Principal Register (Initial exam)  
1989-09-08 - Communication received from applicant  
1989-06-02 - Non-final action mailed  
1989-05-10 - Assigned To Examiner  
1989-05-10 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Correspondent**

Laura E. Goldbard  
Stroock & Stroock & Lavan I.L.P  
180 Maiden Lane  
New York NY 10038  
Phone Number: 212-806-5400  
Fax Number: 212-806-6006

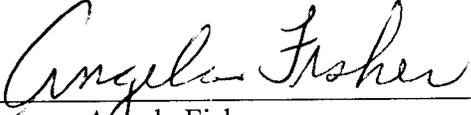
**Domestic Representative**

STROOCK & STROOCK & LAVAN LLP

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on counsel for Wild Rocket Foods LLC by forwarding said copy on May 15, 2008, by electronic mail, to the attorney for Applicant, Frank S. Benjamin, Esq., McKenna Long & Aldridge, 303 Peachtree Street, NE, Suite 5300, Atlanta, Georgia 30308.

  
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Angela Fisher