

ESTTA Tracking number: **ESTTA335999**

Filing date: **03/08/2010**

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	ARLA FOODS AMBA
Granted to Date of previous extension	03/17/2010
Address	SKANDERBORGVEJ 277 VIBJ, DK-8260 DENMARK

Attorney information	Elizabeth Atkins Lathrop & Gage LLP 230 Park Avenue Suite 1847 New York, NY 10169 UNITED STATES eatkins@lathropgage.com, tfitzgerald@lathropgage.com Phone:212 850 6220
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Applicant Information

Application No	77731549	Publication date	11/17/2009
Opposition Filing Date	03/08/2010	Opposition Period Ends	03/17/2010
Applicant	Coombe Castle International Limited 65 Saint Mary Street Chippenham, Wiltshire, SN153JF UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 029. All goods and services in the class are opposed, namely: Butter, cheese, cream
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1940389	Application Date	08/04/1993
Registration Date	12/12/1995	Foreign Priority Date	NONE
Word Mark	PUCK		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 029. First use: cheese
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Attachments	Notice of Opposition.pdf (5 pages)(676367 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 First Class Mail on this date.

Signature	/elizabeth atkins/
Name	Elizabeth Atkins
Date	03/08/2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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ARLA Foods amba,	:	
	:	
Opposer,	:	
	:	
-against-	:	Opposition No.:
	:	
Coombe Castle International Limited,	:	
	:	
	:	
Applicant.	:	
-----X	:	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the matter of Application Serial No. 77/731,549 for registration of the claimed trademark P•U•C Pretty Unique Cheese (“Unique Cheese” disclaimed) in rectangle design (“P•U•C mark”) for use in connection with butter, cheese and cream in International Class 29; filed on May 7, 2009 by Coombe Castle International Limited (hereinafter "Applicant") a limited company organized under the laws of The United Kingdom, located at 65 Saint Mary Street, Chippenham Wiltshire SN153JF, United Kingdom and published in the Official Gazette of November 17, 2009, Arla Foods amba (hereinafter "Opposer"), a limited liability company organized under the laws of Denmark, located at Skanderborgvej 277, DK-8260 Viby J, Denmark believes that it will be damaged by the registration of Applicant's mark in International Class 29 and, therefore, opposes the same. The Commissioner is authorized to charge the prescribed

fee of \$300.00 covering Class 29 and any additional charges to Deposit Account 12-0600 and reference 497918 for our records.

The grounds for opposition are as follows:

1. Opposer is the owner of Registration No. 1,940,389 filed on August 4, 1993 and registered on December 12, 1995 for the mark PUCK for *cheese* (“PUCK Mark”), such Registration having become incontestable by operation of law. Long prior to the acts of Applicant alleged herein and the filing date of Applicant's application Serial No. 77/731,549 based on an intention to use, filed May 7, 2009, Opposer and its predecessors in interest and licensees have been engaged and Opposer is now engaged in the business of distributing and selling *cheese* under the PUCK Mark. Opposer's registration listed herein is valid, in full force and effect, and Opposer's PUCK registration has become incontestable. A copy of the Opposer's referenced PUCK mark certificate of registration mentioned above is attached hereto as Exhibit A.

2. Since long prior to the filing of application Serial No. 77/731,549 by Applicant, Opposer and its predecessors in interest and licensees have continuously manufactured, advertised, offered for sale and sold cheese under Opposer's PUCK Mark to the trade and public in interstate commerce throughout the United States.

3. Opposer and its predecessors in interest and licensees have used and/or obtained a U.S. filing date for the PUCK Mark, long prior to the filing by Applicant of its application assigned Serial No. 77/731,549 for P•U•C Pretty Unique Cheese and Design on May 7, 2009, (“P•U•C Mark”) which is based on an intention to use in U.S. commerce.

4. Since long prior to the acts of Applicant alleged herein, as a result of the care and skill exercised by Opposer, its predecessors in interest and licensees in the manufacture and sale of cheese under the PUCK Mark, the supervision and controls exercised by Opposer and its predecessors in interest and licensees over the nature and quality of these products sold under the PUCK Mark, and the sales and public acceptance thereof, said products have acquired a fine reputation among the purchasing public symbolizing the goodwill which Opposer and/or its predecessors in interest have created throughout the United States by the sale of cheese of dependable quality and by fair and honorable dealings with the trade and public in the sales of such cheese. Registrant's goods sold under and in connection with the PUCK Mark have been the subject of substantial advertising in the U.S., and since 2005, the sales of PUCK brand cheese (retail), in United States commerce, in approximate U.S. dollars, are as follows:

2005: \$ 1.89 Million
2006: \$ 1.00 Million
2007: \$ 2.58 Million
2008: \$ 2.10 Million
2009: \$ 3.14 Million

5. Upon information and belief, Applicant's use of the alleged P•U•C Mark, on and in connection with the goods identified in Class 29 in Application Serial No. 77/731,549 is or would be confusingly similar to Opposer's PUCK Mark.

6. Because the PUCK Mark is exclusively associated with Opposer, the registration of the substantially similar mark of Applicant for the same and very similar goods, likely to be sold in the same or similar trade channels will inevitably cause confusion in the minds of the public, leading the public to believe that Applicant's goods

emanate from Opposer or that Applicant is in some way associated with or is connected to Opposer, when no such relationship exists.

7. Upon information and belief, registration of Applicant's alleged mark in connection with the goods specified in its application in Class 29 will likely cause the public to be confused, mistaken or deceived as to the source, origin or sponsorship of Applicant's goods, to believe that Applicant's goods emanate from Opposer, to believe that Applicant is in some way related to Opposer, and/or believe that Applicant's goods are marketed with the consent, permission or authorization of Opposer.

WHEREFORE, Opposer believes it will be damaged by the registration of Applicant's alleged mark assigned Serial No. 77/731,549 and respectfully requests that the registration sought by Applicant be denied.

Dated: March 8, 2010.
New York, New York

Respectfully submitted,
LATHROP & GAGE LLP

By: 
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Attorneys for Opposer

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the present NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on March 8, 2010.


Thomas J. FitzGerald

CERTIFICATE OF SERVICE

I hereby certify that a copy of the present NOTICE OF OPPOSITION against Application Ser. No. 77/731,549 was sent *via* Certified Mail, return receipt requested, postage prepaid, to the following address on March 8, 2010, such being the address of the named Attorney of Record of Applicant listed in the Trademark Applications and Registrations Retrieval (TARR) system as of this date for the subject Application Ser. No. 77/731,549:

Yuval H. Marcus
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81 Main Street
White Plains, NY 10601


Thomas J. FitzGerald