

ESTTA Tracking number: **ESTTA476560**

Filing date: **06/06/2012**

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

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|---------------------------------------|--|
| Name | Kraft Foods Global Brands LLC |
| Granted to Date of previous extension | 06/06/2012 |
| Address | Three Lakes Drive Northfield, IL 60093 UNITED STATES |

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| Attorney information | Mary A. Carragher Kraft Foods Law Department Three Lakes Drive Northfield, IL 60093 UNITED STATES trademark@kraftfoods.com, sptakmiles@kraftfoods.com Phone:847-646-4074 |
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Applicant Information

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|--------------------------------|--|---------------------------------|------------|
| Application No | 79097740 | Publication date | 02/07/2012 |
| Opposition Filing Date | 06/06/2012 | Opposition Period Ends | 06/06/2012 |
| International Registration No. | 0962560 | International Registration Date | 04/07/2008 |
| Applicant | G. Pohl-Boskamp GmbH & Co. KG Kieler Strasse 11 25551 Hohenlockstedt GERMANY | | |

Goods/Services Affected by Opposition

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| Class 030. All goods and services in the class are opposed, namely: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour, bread, pastry, confectionery, namely, bonbons containing essential oils; honey, treacle; yeast, baking-powder, salt, mustard; vinegar, sauces; spices; ice |
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Grounds for Opposition

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

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 250035 | Application Date | 05/16/1928 |
| Registration Date | 11/27/1928 | Foreign Priority Date | NONE |

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|---------------------|---|
| Word Mark | JELL-O |
| Design Mark | |
| Description of Mark | NONE |
| Goods/Services | Class U046 (International Class 030). First use: First Use: 1897/03/00 First Use In Commerce: 1897/03/00 GELATIN DESSERT |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 2140238 | Application Date | 09/03/1996 |
| Registration Date | 03/03/1998 | Foreign Priority Date | NONE |
| Word Mark | JELL-O | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1967/00/00 First Use In Commerce: 1967/00/00 dessert mixes consisting primarily of cheesecake mix, pie mix or pudding mix | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 2140363 | Application Date | 11/06/1996 |
| Registration Date | 03/03/1998 | Foreign Priority Date | NONE |
| Word Mark | JELL-O | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1996/09/23 First Use In Commerce: 1996/09/23 cheesecake | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 936195 | Application Date | 06/10/1971 |
| Registration Date | 06/20/1972 | Foreign Priority Date | NONE |
| Word Mark | JELL-O | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class U046 (International Class 030). First use: First Use: 1970/08/21 First Use In Commerce: 1970/08/21 READY-TO-EAT PUDDING | | |

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 2963531 | Application Date | 04/22/2003 |
| Registration Date | 06/21/2005 | Foreign Priority Date | NONE |
| Word Mark | JELL-O | | |

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| Design Mark |  |
| Description of Mark | The mark consists of the word JELL-O. |
| Goods/Services | Class 030. First use: First Use: 2004/01/31 First Use In Commerce: 2004/01/31 flavored gelatin and pudding |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3030078 | Application Date | 04/08/2003 |
| Registration Date | 12/13/2005 | Foreign Priority Date | NONE |
| Word Mark | JELL-O | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 2004/03/00 First Use In Commerce: 2004/03/00 Sweetened and flavored gelatin and pudding | | |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3999328 | Application Date | 04/29/2010 |
| Registration Date | 07/19/2011 | Foreign Priority Date | NONE |
| Word Mark | JELL-O | | |

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| Design Mark |  |
| Description of Mark | The mark consists of the word "JELL-O" with a smiling face in the center of the letter "O". |
| Goods/Services | Class 030. First use: First Use: 2010/08/31 First Use In Commerce: 2010/08/31 Sweetened and flavored gelatin desserts; ready to eat pudding desserts; dessert mixes consisting primarily of gelatin mix and pudding mix |

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| Attachments | 78240401#TMSN.gif (1 page)(bytes) 78235036#TMSN.jpeg (1 page)(bytes) 85026524#TMSN.jpeg (1 page)(bytes) Jell-O Gelo Opposition.pdf (4 pages)(91596 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.

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| Signature | /Mary A/ Carragher/ |
| Name | Mary A. Carragher |
| Date | 06/06/2012 |

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

| | | |
|------------------------|---|----------------------|
| KRAFT FOODS GLOBAL |) | |
| BRANDS LLC |) | |
| |) | |
| Opposer, |) | |
| |) | Serial No. 79-097740 |
| v. |) | |
| |) | |
| G. POHL-BOSKAMP GmbH & |) | |
| Co. KG |) | |
| |) | |
| Applicant, |) | |

NOTICE OF OPPOSITION

Assistant Commissioner for Trademarks
Box TTAB
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Sirs:

In the matter of the trademark application of G. POHL-BOSKAMP GmbH & Co. KG, for registration of the mark GELO in Class 30 for “Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour, bread, pastry, confectionery, namely, bonbons containing essential oils; honey, treacle, yeast, baking-powder, salt, mustard, vinegar, sauces; spices; ice”, Application No. 79-097,740, filed March 31, 2011, and published in the *Official Gazette* of February 7, 2012.

Opposer, Kraft Foods Global Brands LLC, a Delaware Limited Liability Company, believes it will be damaged by registration of the mark shown in the application and, therefore opposes the registration of this trademark.

As grounds for this opposition, Opposer states as follows:

CLAIM – SECTION 2(d)

1. For many, many, years prior to Applicant's filing date, Opposer has been engaged in the manufacture and sale of food products throughout the United States, including multiple varieties of gelatin, desserts, and dessert mixes, under the JELL-O trademark. Opposer's date of first use of the JELL-O mark extends back to 1897.
2. By virtue of the excellence of Opposer's products and long history of extensive promotional activities and sales thereof, the JELL-O marks have gained a tremendous amount of goodwill such that the public has come to identify the business and products denominated by the JELL-O marks as those of Opposer. The JELL-O marks acquired this goodwill long before the filing date set forth in the Applicant's application.
3. By virtue of Opposer's long use, extensive sales, advertising, and promotional efforts, Opposer's JELL-O trademark is distinctive and famous. The JELL-O trademark achieved that distinctiveness and fame prior to the filing date set forth in Applicant's application.
4. Opposer owns the following registrations in the United States Patent and Trademark Office for the JELL-O trademark, including:

| Trademark/SN/RN | Disclaimer | Good/Service | Owner | Status/Status Date |
|---|-------------------|---|--------------------------------------|--|
| <u>JELL-O</u> RN: 250,035 | | (Int'l Class: 30) Gelatin Dessert | Kraft Foods Global Brands LLC | Renewed Section 8 accepted November 27, 2008 |
| <u>JELL-O</u> RN: 2,140,238 | | (Int'l Class 30) Dessert mixes consisting primarily of cheesecake mix, pie mix, or pudding mix. | Kraft Foods Global Brands LLC | Renewed 8 & 15 March 3, 2008 |
| <u>JELL-O</u> RN: 2,140,363 | | (Int'l Class 30) Cheesecake | Kraft Foods Global Brands LLC | Renewed 8 & 15 March 3, 2008 |
| <u>Jell-O</u> RN: 936,195 | | (Int'l Class: 30) Ready- to-eat pudding | Kraft Foods Global Brands LLC | Renewed 8 & 15 September 2, 2007 |
| <u>Jell-O & Design</u> RN: 2,963,531 | | (Int'l Class: 30) Sweetened and flavored gelatin and pudding | Kraft Foods Global Brands LLC. | Registered 8 & 15 August 3, 2011 |
| <u>JELL-O STYLIZED</u> RN: 3,030,078 | | (Int'l Class: 30) Sweetened and flavored gelatin and pudding | Kraft Foods Global Brands LLC | Registered 8 & 15 February 2, 2012 |
| <u>JELL-O & Design</u> RN: 3,999,328 | | (Int'l Class: 30) Sweetened and flavored gelatin desserts; ready to eat pudding desserts; dessert mixes consisting preliminarily of gelatin mix and pudding mix | Kraft Foods Global Brands LLC | Registered 07/19/2011 |

Said registrations are maintained on the Principal Register by the United States Patent and Trademark Office and are valid and subsisting in the name of Opposer.

- Opposer's Registration Nos. 936,195; 2,140,238; 2,963,531; 3,030,078, and 2,140,363 have become incontestable under 15 U.S.C. §1065 and the certificates of registration thereof constitute "conclusive evidence of the validity of the registered marks[s] and of the registration of the marks[s], of the registrant's ownership of the mark[s], and of the registrant's exclusive right to use the registered mark[s] in commerce." 15 U.S.C. §1065(b).

6. Applicant has applied to register GELO for “Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour, bread, pastry, confectionery, namely, bonbons containing essential oils; honey, treacle, yeast, baking-powder, salt, mustard, vinegar, sauces; spices; ice”, in Class 30.
7. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant has any basis for claiming rights in the JELL-O trademark prior to Opposer’s first use of its JELL-O mark.
8. Registration of the GELO mark by Applicant in connection with its applied-for goods is likely to cause confusion or mistake or deceive consumers or potential consumers with respect to the JELL-O trademark and Opposer and is likely to cause purchasers and others to erroneously believe that the goods offered by Applicant under its confusingly similar mark are in fact those of Opposer, or are legitimately related to or are associated with or sponsored by Opposer, thereby creating a likelihood of confusion, mistake, or deception.

Wherefore, Opposer believes it will be damaged by the registration of the claimed trademark in Application Serial No. 79-097,740 in Class 30 and requests that such registration be denied.