

ESTTA Tracking number: **ESTTA561397**

Filing date: **09/25/2013**

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	Arthur Schuman Inc.
Granted to Date of previous extension	09/25/2013
Address	40 New Dutch Lane Fairfield, NJ 07004 UNITED STATES

Attorney information	Marsha G. Ajhar Smith Gambrell & Russell LLP 250 Park Avenue New York, NY 10177 UNITED STATES majhar@sgrlaw.com Phone:212-907-9779
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Applicant Information

Application No	85643029	Publication date	05/28/2013
Opposition Filing Date	09/25/2013	Opposition Period Ends	09/25/2013
Applicant	Zuckerman Family Farms PO Box 407 Stockton, CA 95201 UNITED STATES		

Goods/Services Affected by Opposition

Class 031. All goods and services in the class are opposed, namely: Fresh potatoes

Grounds for Opposition

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

U.S. Registration No.	3302590	Application Date	08/29/2006
Registration Date	10/02/2007	Foreign Priority Date	NONE
Word Mark	BELLA ROSA		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 029. First use: First Use: 1994/10/00 First Use In Commerce: 1994/10/00 Cheese		
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U.S. Registration No.	3342555	Application Date	09/15/2006
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Registration Date	11/27/2007	Foreign Priority Date	NONE
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Word Mark	BELLA ROSA		
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Design Mark			
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Description of Mark	The mark consists of the term "BELLA ROSA" which appears in black, a rose design which appears in red below "BELLA" and to the left of "ROSA", and a background in white.		
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Goods/Services	Class 029. First use: First Use: 2005/06/13 First Use In Commerce: 2005/06/13 Cheese		
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Attachments	BELLA ROSA - Zuckerman Family Farms - Notice of Opposition.docx.pdf(500839 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	/mga/
Name	Marsha G. Ajhar
Date	09/25/2013

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

In the Matter of Trademark Application No. 85643029

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ARTHUR SCHUMAN, INC.,	:	Opposition No.
	:	
Opposer,	:	
	:	
v.	:	
	:	
ZUCKERMAN FAMILY FARMS,	:	
	:	
Applicant.	:	
-----X	:	

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

NOTICE OF OPPOSITION

Arthur Schuman, Inc., a corporation organized and existing under the laws of the State of New Jersey, with a principal address at 40 New Dutch Lane, Fairfield, New Jersey 07004 ("ASI" or "Opposer"), believes it will be damaged by registration of the mark BELLA ROSA as shown in Application Serial No. 85643029 by Zuckerman Family Farms ("Applicant") and, pursuant to Section 13 of the Trademark Act, 15 U.S.C. §1063, hereby opposes same.

As grounds for opposition, it is alleged that:

1. ASI is the largest importer of hard cheeses in the U.S. as well as a significant producer of domestic cheeses of many varieties. ASI holds a top ranking position for the production of hard and semi-hard domestic cheeses in the United States and its state-of-the-art facilities in Fairfield, New Jersey and Elgin, Illinois process more than 80 million pounds of cheese each year.

2. ASI has used the name and mark BELLA ROSA for cheese continuously in the United States for at least the past nineteen (19) years, since at least as early as 1994. The mark is used for a wide variety of different types of cheeses including Swiss, Cheddar, Colby Jack, Pepper Jack, Havarti, imported Gouda and Asiago as well as for cheese and meat combo trays which include a variety of cheeses packaged with sausage and/or salami. ASI's BELLA ROSA line of cheeses is distributed and sold nationally.

3. Petitioner is the owner of U.S. Registration No. 3,302,590, duly registered on October 2, 2007, for BELLA ROSA in Class 29 for cheese.

4. Petitioner is also the owner of U.S. Registration No. 3,342,555, duly registered on November 27, 2007, for BELLA ROSA and Design, in Class 29 for cheese.

5. On information and belief, Zuckerman Family Farms, located in Stockton, California, is the applicant and present owner of Application No. 85643029 for the mark BELLA ROSA in Class 31 for "fresh potatoes". The application was filed on June 5, 2012 based on Section 1(b) of the Trademark Laws and a purported bona fide intent to use the mark with respect to the identified goods.

6. Opposer has not licensed or otherwise authorized Registrant's use or registration of the BELLA ROSA mark for potatoes or any other goods or services.

7. Opposer's goods are cheese and Applicant's goods are potatoes. These food products are closely related; they are often used (and consumed) together and are marketed in the same and highly similar trade channels.

8. In view of the foregoing, registration by Applicant of BELLA ROSA, a mark identical to Opposer's BELLA ROSA Mark, for goods closely related to the goods of Opposer, is likely to cause confusion, mistake or deception of the public as to the source of Applicant's goods and falsely suggest a common association, sponsorship or origin of said services between Applicant and Opposer, all to Opposer's irreparable damage and injury.

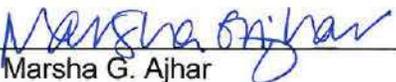
9. In view of the similarity between Applicant's and Opposer's marks and Opposer's prior rights in and to its BELLA ROSA Mark, registration of Applicant's BELLA ROSA mark is barred under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)) as it so resembles Opposer's mark as to be likely to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Opposer believes it will be damaged by the registration of Application No. 85643029 and therefore respectfully requests that such registration be refused pursuant to 15 U.S.C. § 1063 and this opposition sustained.

Respectfully submitted,

SMITH GAMBRELL & RUSSELL LLP
Attorneys for Opposer,
Arthur Schuman, Inc.

Dated: September 25, 2013

By 
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition was served by first class mail, postage prepaid, on September 25, 2013, upon counsel to Applicant at the correspondence address of record in the United States Patent and Trademark Office as set forth below:

Christopher Ditico, Esq.
Raj Abhyanker, P.C.
1580 W. El Camino Real, Suite 8
Mountain View, CA 94040-2462


Marsha G. Ajhar