

ESTTA Tracking number: **ESTTA564816**

Filing date: **10/14/2013**

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	Potbelly Sandwich Works LLC		
Entity	Limited Liability Company	Citizenship	Illinois
Address	222 Merchandise Mart Plaza, 23rd Floor Chicago, IL 60654 UNITED STATES		

Attorney information	John C. Rawls Baker Williams Matthiesen LLP 1177 West Loop South Suite 1600 Houston, TX 77027 UNITED STATES rocky@bwmtx.com, sharon@bwmtx.com, valyncia@bwmtx.com Phone:713-888-3535		
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**Applicant Information**

Application No	85896812	Publication date	09/17/2013
Opposition Filing Date	10/14/2013	Opposition Period Ends	10/17/2013
Applicant	Jonathan S Swire 1717 S Barrington, Suite 103 Los Angeles, CA 90025 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 043. First Use: 2013/04/03 First Use In Commerce: 2013/04/03 All goods and services in the class are opposed, namely: Fast-food restaurant services; Restaurant and cafe services; Restaurant services; Restaurant services, including sit-down service of food and take-out restaurant services; Restaurant services, namely, providing of food and beverages for consumption on and off the premises; Restaurants featuring home delivery; Self-service restaurants; Take-out restaurant services
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2221101	Application Date	09/16/1996
Registration Date	02/02/1999	Foreign Priority Date	NONE

Word Mark	POTBELLY SANDWICH WORKS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1977/06/11 First Use In Commerce: 1977/07/21 restaurant services

U.S. Registration No.	2178589	Application Date	08/11/1997
Registration Date	08/04/1998	Foreign Priority Date	NONE
Word Mark	POTBELLY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1977/06/11 First Use In Commerce: 1977/07/21 restaurant services		

U.S. Registration No.	3887721	Application Date	10/20/2009
Registration Date	12/07/2010	Foreign Priority Date	NONE
Word Mark	POTBELLY SANDWICH SHOP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2010/01/00 First Use In Commerce: 2010/01/00 Restaurant services		

Related Proceedings	N/A
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Attachments	FINAL PORK BELLYOpposition14Oct2013.pdf(606646 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	/John C. Rawls/
Name	John C. Rawls
Date	10/14/2013