

ESTTA Tracking number: **ESTTA574682**

Filing date: **12/04/2013**

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

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| Name | Paramount Farms International LLC |
| Granted to Date of previous extension | 02/19/2014 |
| Address | 11444 W. Olympic Blvd. Los Angeles, CA 90064 UNITED STATES |

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| Correspondence information | Paramount Farms International LLC 11444 W. Olympic Blvd. Los Angeles, CA 90064 UNITED STATES mvasseghi@roll.com, mrivera@roll.com, jreider@roll.com, jhenry@roll.com Phone:310-966-8400 |
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Applicant Information

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|------------------------|--------------------------------------------------------------------------------|------------------------|------------|
| Application No | 85898315 | Publication date | 10/22/2013 |
| Opposition Filing Date | 12/04/2013 | Opposition Period Ends | 02/19/2014 |
| Applicant | Wonderfully Raw Gourmet Delights, LLC 1B Watsonville, CA 95076 CANADA | | |

Goods/Services Affected by Opposition

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| Class 029. First Use: 2010/10/01 First Use In Commerce: 2011/01/01 All goods and services in the class are opposed, namely: Raw vegetable-based snack foods |
| Class 030. First Use: 2010/10/01 First Use In Commerce: 2011/01/01 All goods and services in the class are opposed, namely: Dehydrated raw cookies |

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3443097 | Application Date | 08/14/2006 |
| Registration Date | 06/03/2008 | Foreign Priority Date | NONE |
| Word Mark | WONDERFUL | | |

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|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| Design Mark | <h1>WONDERFUL</h1> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 029. First use: First Use: 2007/05/17 First Use In Commerce: 2007/05/17 Flavored nuts, salted nuts, shelled nuts, roasted nuts; processed nuts; snack mix consisting primarily of processed nuts | | |

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|-----------------------|----------------------------------------------------------------------------------------------|-----------------------|------------|
| U.S. Registration No. | 3463342 | Application Date | 02/23/2007 |
| Registration Date | 07/08/2008 | Foreign Priority Date | NONE |
| Word Mark | WONDERFUL PISTACHIOS | | |
| Design Mark | <h1>WONDERFUL PISTACHIOS</h1> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 029. First use: First Use: 2007/05/17 First Use In Commerce: 2007/05/17 Processed nuts | | |

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|-----------------------|--------------------------------------------------------------------------------------|-----------------------|------------|
| U.S. Registration No. | 3784763 | Application Date | 10/22/2009 |
| Registration Date | 05/04/2010 | Foreign Priority Date | NONE |
| Word Mark | WONDERFUL | | |
| Design Mark |  | | |

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| Description of Mark | The mark consists of the word "WONDERFUL" with a heart in place of the letter "O". |
| Goods/Services | Class 029. First use: First Use: 2009/09/21 First Use In Commerce: 2009/09/21 Processed nuts |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3907814 | Application Date | 06/07/2010 |
| Registration Date | 01/18/2011 | Foreign Priority Date | NONE |

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| Word Mark | WONDERFUL |
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| Design Mark |  |
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| Description of Mark | NONE |
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| Goods/Services | Class 031. First use: First Use: 2010/05/15 First Use In Commerce: 2010/05/15 Fresh nuts; Raw nuts; Unprocessed nuts |
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| U.S. Registration No. | 3907815 | Application Date | 06/07/2010 |
| Registration Date | 01/18/2011 | Foreign Priority Date | NONE |

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| Word Mark | WONDERFUL |
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|-------------|--------------------------------------------------------------------------------------|
| Design Mark |  |
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|---------------------|--------------------------------------------------------------------------------------|
| Description of Mark | The mark consists of the word "WONDERFUL" with a heart in place of the letter "O". . |
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| Goods/Services | Class 031. First use: First Use: 2010/05/15 First Use In Commerce: 2010/05/15 Fresh nuts; Raw nuts; Unprocessed nuts |
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| U.S. Registration No. | 4307930 | Application Date | 04/04/2012 |
| Registration Date | 03/26/2013 | Foreign Priority Date | NONE |

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| Word Mark | WONDERFUL ALMONDS |
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| Design Mark | WONDERFUL ALMONDS |
| Description of Mark | NONE |
| Goods/Services | Class 029. First use: First Use: 2012/02/00 First Use In Commerce: 2012/02/00 Processed nuts Class 031. First use: First Use: 2012/02/00 First Use In Commerce: 2012/02/00 Raw natural nuts |

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3984224 | Application Date | 07/12/2010 |
| Registration Date | 06/28/2011 | Foreign Priority Date | NONE |

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| Word Mark | WONDERFUL MINIALMONDS |
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| Design Mark |  |
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| Description of Mark | The mark consists of product packaging for the goods having a rectangular shape with semi-circular curved sides. A diagonal stripe appears in the upper left corner of the package. The word "WONDERFUL" with a design of a "heart" in place of the letter "o" appears across the top of the packaging and the word "MINI ALMONDS" appears vertically in the middle of the packaging. |
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| Goods/Services | Class 029. First use: First Use: 2010/05/15 First Use In Commerce: 2010/05/15 Prepared nuts; Processed almonds; Processed nuts; Roasted nuts; Seasoned nuts Class 031. First use: First Use: 2010/05/15 First Use In Commerce: 2010/05/15 Fresh nuts; Raw nuts; Unprocessed nuts |
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| U.S. Registration No. | 4307923 | Application Date | 04/02/2012 |
| Registration Date | 03/26/2013 | Foreign Priority Date | NONE |

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| Word Mark | WONDERFUL ALMONDS |
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| Design Mark |  |
| Description of Mark | The mark consists of product packaging for the goods having a rectangular shapewith semi-circular curved sides. The word "WONDERFUL" with a design of a "heart" in place of the letter "o" appears across the top of the packaging and the word "ALMONDS" appears vertically in the middle of the packaging. |
| Goods/Services | Class 029. First use: First Use: 2012/02/18 First Use In Commerce: 2012/02/18 Processed nuts Class 031. First use: First Use: 2012/02/18 First Use In Commerce: 2012/02/18 Raw natural nuts |

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| Attachments | 78980181#TMSN.jpeg(bytes) 77114811#TMSN.jpeg(bytes) 77855511#TMSN.jpeg(bytes) 85056771#TMSN.jpeg(bytes) 85056772#TMSN.jpeg(bytes) 85589585#TMSN.jpeg(bytes) 85082512#TMSN.jpeg(bytes) 85586578#TMSN.jpeg(bytes) 12-4-13 Opposition.pdf(15881 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 | /s/ Michael M. Vasseghi /s/ |
| Name | Paramount Farms International LLC |
| Date | 12/04/2013 |

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

Paramount Farms International LLC)
)
) Opposition No.: _____
 Opposer,)
)
v.) **NOTICE OF OPPOSITION**
)
Wonderfully Raw Gourmet Delights, LLC)
) Mark: WONDERFULLY RAW
 Applicant.) Application Ser. No.: 85898315
)
)
)
_____)

Paramount Farms International LLC, a Delaware limited liability company located and doing business at 11444 W. Olympic Blvd., Los Angeles, CA 90064 (“Paramount Farms” or “Opposer”), believes it will be damaged by registration of the WONDERFULLY RAW mark (the “WONDERFULLY Mark”) in Classes 029 and 030 for *raw vegetable-based snack foods* and *dehydrated raw cookies* filed by Wonderfully Raw Gourmet Delights, a California limited liability company (“Applicant”), with an address of 1B 9 Hangar Way, Watsonville, California 95076, and hereby opposes the same.

As grounds for this opposition, Opposer alleges:

1. Opposer is the largest grower and processor of almonds and pistachios in the world. Since before the October 2010 claimed first use date in Applicant’s Application Serial No. 85898315 (“Application”), Opposer has extensively marketed and sold processed and natural nuts in interstate commerce in connection with its distinctive WONDERFUL marks, and

other marks comprised of the distinctive element WONDERFUL (collectively the “WONDERFUL Marks”).

2. Opposer owns a family of marks covering the WONDERFUL Marks for various nut products, including registrations issued by the United States Patent and Trademark Office. Opposer’s registrations include, but are not limited to, WONDERFUL, Reg. No. 3,443,097; WONDERFUL PISTACHIOS, Reg. No. 3,463,342; WONDERFUL and DESIGN, Reg. Nos. 3,784,763; 3,907,814; 3,907,815; WONDERFUL ALMONDS, Reg. No. 4,307,930; WONDERFUL MINIALMONDS, Reg. No. 3,984,224; WONDERFUL MINIALMONDS and DESIGN, Reg. No. 4307923.

3. These registrations are valid, subsisting, and owned by Opposer.

4. Opposer has sold millions of dollars worth of goods in connection with the WONDERFUL Marks.

5. Opposer has spent millions of dollars advertising and promoting its products in connection with the WONDERFUL Marks throughout the United States.

6. Opposer’s advertising and promotion of the WONDERFUL Marks includes television advertisements for the last five years on major networks such as ABC, NBC, CBS, CNN, TNT and many others.

7. By virtue of the popularity of Opposer’s goods offered in connection with the WONDERFUL Marks, Opposer has built and owns extremely valuable goodwill symbolized by, and associated with, the WONDERFUL Marks.

8. In the Application, Applicant applied for registration of the WONDERFULLY Mark in International Classes 029 and 030, with the description of goods as *raw vegetable-based snack foods and dehydrated raw cookies* (“Applicant’s Goods”).

9. Applicant's application to register and proposed use of the WONDERFULLY Mark in connection with Applicant's Goods is without Opposer's consent or permission.

10. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant made actual use of the WONDERFULLY Mark prior to the October 2010 first use date claimed in the Application.

11. Opposer timely filed an Extension of Time to Oppose the Application with the Trademark Trial and Appeal Board on October 23, 2013, and the Extension request was granted. An opposition to the Application must be filed by February 19, 2014. Therefore, this Notice of Opposition is being timely filed.

12. Opposer has rights in and to the WONDERFUL Marks long prior to the first actual or constructive use of the WONDERFULLY Mark.

COUNT I – LIKELIHOOD OF CONFUSION

13. Opposer incorporates the allegations of Paragraphs 1 through 12.

14. The WONDERFULLY Mark so resembles the WONDERFUL Marks as to be likely, when used on or in connection with Applicant's Goods, to cause confusion, to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), as amended. The WONDERFULLY Mark also conveys the same commercial impression as the WONDERFUL Marks.

15. Applicant's Goods are identical, similar and/or related to the goods used in connection with the WONDERFUL Marks. Applicant's proposed use and registration of the WONDERFULLY Mark in connection with the Applicant's Goods is likely to cause confusion, deception and/or mistake among the relevant public.

16. The purchasing public is likely to be led to believe that goods bearing the WONDERFULLY Mark emanate from or are approved, licensed, sponsored by, or in some other way legitimately connected with or affiliated with, Opposer or that Applicant and its business are owned by or are affiliated with Opposer and its business.

17. If Applicant is permitted to use the WONDERFULLY Mark as specified in the Application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between the WONDERFULLY Mark and the WONDERFUL Marks. Consumers familiar with the WONDERFUL Marks would be likely to believe Applicant's goods are provided by Opposer or provided with Opposer's authorization or approval. Furthermore, any defect, objection or fault found with Applicant's goods sold under the WONDERFULLY Mark would necessarily injure Opposer's reputation and the goodwill Opposer has established in the WONDERFUL Marks.

COUNT II - DILUTION

18. Opposer incorporates the allegations of Paragraphs 1 through 17.

19. Prior to Applicant's claimed first use date, the WONDERFUL Marks became distinctive and famous in accordance with 15 U.S.C. 1125(c).

20. Applicant's registration and use of the WONDERFULLY Mark for Applicant's Goods is likely to cause dilution of Opposer's famous WONDERFUL Marks.

21. Opposer believes it will be damaged by registration of the WONDERFULLY Mark because such registration would give Applicant at least a prima facie exclusive right to use the WONDERFULLY Mark in commerce in the United States, in derogation of Opposer's senior rights in the WONDERFUL Marks.

22. Applicant's use and registration of the WONDERFULLY Mark will damage Opposer, its business and its goodwill.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 85898315 be denied registration and that such other and further relief as is deemed just and proper be granted.

Please debit our Deposit Account No. 502934 for the \$600 filing fee and for any additional necessary fees.

Please address all correspondence to Michael Vasseghi, Esq. at Roll Law Group P.C., 11444 West Olympic Boulevard, Los Angeles, CA 90064.

Respectfully Submitted,

Date: December 4, 2013

Paramount Farms International LLC

By: /s/ Michael M. Vasseghi /s/
Michael M. Vasseghi, Esq.
ROLL LAW GROUP P.C.
11444 West Olympic Blvd.
Los Angeles, California 90064
Tel. (310) 966-8776
Fax (310) 966-8100
Attorney for Opposer

CERTIFICATE OF SERVICE

I, Janice Henry, hereby certify that a copy of this NOTICE OF OPPOSITION has been served upon Applicant at the correspondence address of record:

Wonderfully Raw Gourmet Delights, LLC
1B 9 Hangar Way
Watsonville, California 95076

by first class mail, postage prepaid, on this 4th day of December, 2013.

By: /s/ Janice Henry /s/
Roll Law Group P.C.
11444 West Olympic Blvd.
Los Angeles, CA 90064
Tel. (310) 966-8400
Fax (310) 966-8810