

ESTTA Tracking number: **ESTTA629140**

Filing date: **09/24/2014**

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	Oakhurst Industries, Inc. DBA Freund Baking Co.		
Entity	Corporation	Citizenship	California
Address	2050 South Tubeway Ave. Commerce, CA 90040 UNITED STATES		

Attorney information	Steven A. Freund, Esq. Law Office of Steven A. Freund P.O. Box 911457 Los Angeles, CA 90091 UNITED STATES sfreund@freundlawfirm.com Phone:310-284-7929		
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Applicant Information

Application No	86139432	Publication date	08/26/2014
Opposition Filing Date	09/24/2014	Opposition Period Ends	09/25/2014
Applicant	13th Ave Fish Market Inc. 4301 15th Avenue Brooklyn, NY 11219 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 2013/10/01 First Use In Commerce: 2013/10/01
All goods and services in the class are opposed, namely: GEFILTE FISH, FRESH FISH, NOT LIVE, FROZEN FISH, CANNED TUNA FISH, AND BREADED FISH FILLETS

Applicant Information

Application No	86139577	Publication date	08/26/2014
Opposition Filing Date	09/24/2014	Opposition Period Ends	09/25/2014
Applicant	13th Ave Fish Market Inc. 4301 15th Avenue Brooklyn, NY 11219 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 2013/10/01 First Use In Commerce: 2013/10/01
All goods and services in the class are opposed, namely: gefilte fish, fresh fish, not live, frozen fish, canned tuna fish, and breaded fish fillets

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4304304	Application Date	05/16/2012
Registration Date	03/19/2013	Foreign Priority Date	NONE
Word Mark	SINCE 1856 FREUND BAKING CO.		
Design Mark			
Description of Mark	The mark consists of the word "FREUND" in white, placed in a blue banner. The banner is centered on a double circle, the inner element of the circle in yellow and the outer element of the circle in red. The words "SINCE 1856 and BAKING CO." appear in yellow lettering around the outer circle. This design is contained within a white rectangle with a thin blue border.		
Goods/Services	Class 030. First use: First Use: 1981/01/01 First Use In Commerce: 1981/01/01 Bakery products		

U.S. Registration No.	4500792	Application Date	05/30/2013
Registration Date	03/25/2014	Foreign Priority Date	NONE
Word Mark	SINCE 1856 FREUND BAKING CO.		

Design Mark	
Description of Mark	<p>The mark consists of the word "FREUND" in white, placed in a blue banner. The banner is centered on a double circle, the inner element of the circle in yellow and the outer element of the circle in red. The words "SINCE 1856" and "BAKING CO." appear in yellow lettering around the outer circle. This design is contained within a white rectangle with a thin blue border.</p>
Goods/Services	<p>Class 040. First use: First Use: 1981/01/01 First Use In Commerce: 1994/01/01 Private label baking services</p>

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Design Mark	
Goods/Services	<p>Class 030 - Bakery products (First Use and Use in Commerce Dates:</p>

	01/01/1981), Class 040 - Private label baking services (First Use and Use in Commerce Dates: 01/01/1981)
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SINCE 1856 FREUND BAKING CO.		
Goods/Services	Class 030 - Bakery products (First Use and Use in Commerce Dates: 01/01/1981), Class 040 - Private label baking services (First Use and Use in Commerce Dates: 01/01/1981)		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	FREUND BAKING CO.		
Goods/Services	Class 030 - Bakery products (First Use and Use in Commerce Dates: 01/01/1981), Class 040 - Private label baking services (First Use and Use in Commerce Dates: 01/01/1981)		

Attachments	85627606#TMSN.png(bytes) 85946497#TMSN.png(bytes) Blue.Bakery.Logo 2.jpg Notice of Opposition 9-24-14.pdf(275562 bytes) Exhibit A.pdf(4051061 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	/Steven A. Freund/
Name	Steven A. Freund, Esq.
Date	09/24/2014

BAKING CO.) as applied for in the above-identified registrations (both of the foregoing marks individually referred to by their Registration Numbers). The registrations together cover the following goods and services: “Bakery products” and “Private label baking services” (“**Opposer’s Goods and Services**”). The registrations are valid, subsisting and in full force and effect. Copies of Opposer’s registration certificates and true and correct copies of TSDR printouts showing current status and title for Opposer’s registrations are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

2. Opposer’s Reg. No. 4,500,792 has “SINCE 1856” and “BAKING CO.” disclaimed.

3. In addition, Opposer owns common law rights in the words and design mark that is the subject of Opposer’s Reg. Nos. 4,304,304 and 4,500,792 for Opposer’s Goods and Services. Opposer further owns common law rights for marks that are different colored versions of Opposer’s Reg. Nos. 4,304,304 and 4,500,792 for Opposer’s Goods and Services, such as . Moreover, Opposer owns common law rights in the word mark FREUND BAKING CO. for Opposer’s Goods and Services. All of Opposer’s marks that feature the term FREUND are referred to herein as “**Opposer’s Marks.**”

4. Opposer has invested considerable money, time and effort into the use, advertising and promotion of Opposer’s Marks in connection with Opposer’s Goods and Services.

5. Opposer has been using Opposer’s Marks in connection with Opposer’s Goods and Services since at least as early as January 1981.

6. Opposer’s Marks have a long and illustrious history in connection with Opposer’s Goods and Services going back many years.

7. Since long prior to Applicant’s filing date and Applicant’s alleged first use and first use in commerce date of Applicant’s Marks, Opposer has continuously and extensively used in interstate commerce Opposer’s Marks on and in connection with the advertising, promotion, offer and sale of Opposer’s Goods and Services.

8. Opposer filed its application for the registration that matured into Reg. No. 4,304,304 on May 16, 2012 and also filed its application for the registration that matured into 4,500,792 on May 30, 2013.

9. Opposer's Marks are inherently distinctive.

10. Opposer's Marks are highly distinctive with regards to the goods and services covered in Opposer's Goods and Services. Moreover, Opposer's Marks are highly distinctive with regards to the food industry. Opposer's Marks have earned tremendous goodwill in the food industry. Through Opposer's widespread use of Opposer's Marks and Opposer's Goods and Services, extensive promotion of Opposer's Marks and Opposer's Goods and Services, customer recognition of Opposer's Marks and Opposer's Goods and Services, Opposer's loyal customer base, its multiple trademark registrations, and other factors, Opposer's Marks have become famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

11. Notwithstanding Opposer's prior rights in and to Opposer's Marks, Applicant filed on December 10, 2013 the above-identified applications for Applicant's Marks both for: "GEFILTE FISH, FRESH FISH, NOT LIVE, FROZEN FISH, CANNED TUNA FISH, AND BREADED FISH FILLETS" ("**Applicant's Goods**"), both with a claimed first use and first use in commerce date of October 1, 2013.

FIRST GROUND FOR OPPOSITION:
PRIORITY AND LIKELIHOOD OF CONFUSION

12. Opposer incorporates by reference Paragraphs 1 through 11, inclusive, as if fully set forth herein.

13. Opposer filed its applications for its marks previous to Applicant's filing date for Applicant's Marks. Both of Opposer's filing dates cited in Paragraph 8 are previous to Applicant's claimed first use and first use in commerce dates for Applicant's Marks.

14. Opposer has priority over Applicant through the use of Opposer's Marks previous to the filing date of Applicant's Marks and through Opposer's Reg. No. 4,304,304 and Reg. No. 4,500,792.

15. Applicant is not affiliated or connected with Opposer, nor has Opposer endorsed or sponsored Applicant.

16. Applicant's Marks both have "FAMOUS" disclaimed.

17. Opposer's Marks and Applicant's Marks all incorporate the word "FREUND".

18. Because of the disclaimer for Applicant's Marks, and Applicant's Marks' "S" merely denoting non-distinctive matter signifying the possessive, "FREUND" should be considered the dominant part of Applicant's Marks.

19. Since in Opposer's Reg. No. 4,500,792 all the words other than "FREUND" are disclaimed and in Opposer's Reg. Nos. 4,500,792 and 4,304,304 "FREUND" appears in the largest letters and in the center, most prominent portion of both registrations (along with the common law version of such marks) "FREUND" should be considered the dominant part of Opposer's Reg. Nos. 4,500,792 and 4,304,304, along with the common law versions of such marks.

20. Moreover, "FREUND" should be considered the dominant part of Opposer's common law mark for the words mark SINCE 1856 FREUND BAKING CO. Opposer's common law mark for FREUND BAKING CO. and Opposer's common law mark



21. The design element of Opposer's Marks incorporates the word "Freund" in white stylized lettering, with the "F" in "Freund" capitalized and the rest of the word in lower case letters all against a blue background. The "F" in Opposer's Marks has its ends cut diagonally at a 45 degree angle and not in a vertical direction.

22. Applicant's Serial No. 86/139,577 is confusingly similar in appearance and commercial impression to Opposer's Marks because it too incorporates the word "Freund" in white stylized lettering in a highly similar font to the one Opposer's Marks have, with the "F" in "Freund" capitalized and the rest of the word in lower case letters all against a blue background and the "F" in Applicant's Serial No. 86/139,577 also has its ends cut diagonally at a 45 degree angle and not in a vertical direction.

23. Since Opposer's Marks and Applicant's Marks both have the shared identical wording of "FREUND", since "FREUND" is the dominant part of Opposer's Marks and Applicant's Marks and since Opposer's Marks and Applicant's Serial No. 86/139,577 have similar design components, Applicant's Marks are confusingly similar in appearance and commercial impression to Opposer's Marks.

24. Though different foods and food-related services may fall into different classes, such as Applicant's and Opposer's, such foods and food-related services can be considered closely related for a likelihood of confusion analysis, especially when the foods and food-related services are complimentary.

25. Opposer's Goods and Services and Applicant's Goods should be considered closely related and complimentary, especially because Applicant's Goods, namely its breaded fish fillets, incorporate bread, which is a part of Opposer's Goods and Services.

26. Moreover, Applicant has already produced and sold products that incorporate bread and bakery products similar or the same as Opposer's Goods and Services under the same marks that comprise Applicant's Marks alongside and separate from Applicant's Goods, such as tempura batter mix, muffins, cakes and cookies. This shows that Applicant has already expanded into Opposer's Goods and Services, which would cause people to be confused as to source between Opposer and Applicant. Were Applicant to release further bread and bakery products under Applicant's Marks, this likelihood of confusion would continue, due to Applicant's expansion into Opposer's Goods and Services.

27. The consolidation and diversification of food manufacturing companies often leads to different types of food products being distributed by one company, with most consumers not being aware of this. Thus, when viewing Applicant's Marks in connection with Applicant's Goods, consumers are likely to be confused into believing that such goods originate with, are approved, sponsored or endorsed by, or have some connection or affiliation with Opposer.

28. Moreover, Opposer's Goods and Services and Applicant's Goods are complimentary because Opposer's bakery products and Applicant's fish products are often combined for dishes such as sandwiches.

29. Opposer's Goods and Applicant's Goods have similar trade channels because they both incorporate products that are found in the same places.

30. Opposer's Goods and Applicant's Goods are offered to similar or overlapping classes of purchasers.

31. Applicant's Marks, when used in connection with Applicant's Goods and Applicant's bread and bakery products is likely to cause confusion, to cause mistake, and to deceive the trade and public, who, upon seeing the Applicant's Marks in connection with Applicant's Goods and Applicant's bread and bakery products, would believe that such goods originate with, are approved, sponsored or endorsed by, or have some connection or affiliation with Opposer. Accordingly, registration of Applicant's Marks would damage Opposer, and registration, therefore, should be refused pursuant to Section 2(d) of the Trademark Act.

SECOND GROUND FOR OPPOSITION:
DILUTION OF FAMOUS MARKS

32. Opposer incorporates by reference Paragraphs 1 through 31, inclusive, as if fully set forth herein.

33. Opposer's Marks are famous as defined under Section 43(c)(1) of the Trademark Act, through Opposer's extensive use and promotion of Opposer's Marks in connection with Opposer's Goods and Services.

34. Opposer's Marks are also famous in food industry.

35. Opposer's Marks became famous before Applicant's filing date and Applicant's alleged first use and first use in commerce dates for Applicant's Marks.

36. Opposer has continuously used Opposer's Marks throughout the United States and internationally.

37. Applicant's Marks are likely to cause an association between Applicant's Marks and Opposer's Marks. This false association impairs the distinctiveness of

Opposer's Marks and weakens the connection in the public's mind between Opposer's Marks and Opposer's Goods and Services.

38. Applicant's Marks so resemble Opposer's Marks that they are likely to cause dilution by blurring. Accordingly, registration of Applicant's Marks would damage Opposer, and registration, therefore, should be refused pursuant to Section 43(c) of the Trademark Act.

THIRD GROUND FOR OPPOSITION:

MERE DESCRIPTIVENESS - ONLY FOR APPLICATION SERIAL NO. 86/139,577 

39. Opposer incorporates by reference Paragraphs 1 through 38 inclusive, as if fully set forth herein.

40. Applicant's Serial No. 86/139,577 incorporates as part of its design element the picture of a fish.

41. Such a picture of a fish does not have secondary meaning.

42. Applicant's Goods are fish products such as: "GEFILTE FISH, FRESH FISH, NOT LIVE, FROZEN FISH, CANNED TUNA FISH, AND BREADED FISH FILLETS", as listed in the applications for Applicant's Marks.

43. The legally equivalent wording to the picture of a fish part of the design component of Applicant's Serial No. 86/139,577 is "fish".

44. Thus, the picture of a fish part of the design component of Applicant's Serial No. 86/139,577 is merely descriptive of Applicant's Goods. Accordingly, registration of Serial No. 86/139,577, should be refused pursuant to Section 2(e)(1) of the Trademark Act.

FOURTH GROUND FOR OPPOSITION:

FRAUD

45. Opposer incorporates by reference Paragraphs 1 through 44 inclusive, as if fully set forth herein.

46. When Applicant filed its Application Serial No. 86/139,577, it used a drawing of the mark that was subject of that application with a ® registration symbol incorporated in that mark.

47. When Applicant filed its Application Serial No. 86/139,577 and Application Serial No. 86/139,432, it submitted the same specimen for each application, showing fish products with the drawing as originally submitted with the ® registration symbol.

48. On March 27, 2014, Applicant received an office action (the “**Office Action**”) from the USPTO for its Application Serial No. 86/139,577 stating, among other issues, that Applicant must submit a new drawing of the mark that is the subject of that application deleting the ® registration symbol. The ® registration symbol may not be used in connection with a mark until it is registered with the USPTO.

49. On June 9, 2014, Applicant responded to the Office Action by, inter alia, submitting a new drawing of the mark that was the subject of Application Serial No. 86/139,577 without the ® registration symbol (the “**New Drawing**”). Applicant did not amend its first use or first use and first use in commerce date for the mark under this application when it submitted the amended drawing.

50. Applicant did not use the New Drawing as early as its stated first use and first use in commerce date of October 1, 2013 in its Application Serial No. 86/139,577.

51. Applicant knew that it had not used the New Drawing as early as its stated first use and first use in commerce date of October 1, 2013 in its Application Serial No. 86/139,577.

52. At least as early as Applicant’s receipt of the Office Action, Applicant was on notice that it was improper to submit drawings and specimens for marks with the ® registration symbol because its marks were not registered.

53. Applicant did not inform the USPTO that its specimens for both of Applicant’s Marks bore the ® registration symbol.

54. Applicant has sold and promoted Applicant’s Goods with Applicant’s Marks on them using the originally submitted drawing of the mark with the ® registration symbol.

55. Applicant has continued to sell and promote Applicant's Goods with Applicant's Marks on them using the originally submitted drawing of the mark with the ® registration symbol.

56. Applicant willfully failed to correct its misrepresentation to the USPTO that its specimens for both of Applicant's Marks contained the ® registration symbol.

57. Applicant willfully failed to correct its misrepresentation to the USPTO that the first use and first use in commerce date as stated in the applications for Applicant's Serial No. 86/139,577 were still not correct.

58. Such willful misrepresentations to the USPTO allowed Applicant's Marks to proceed to publication. Accordingly, registration of Applicant's Marks should be refused due to fraud on the USPTO.

Wherefore, Opposer prays that this Opposition be sustained and that Application Serial No. 86/139,432 and Application Serial No. 86/139,577 be refused registration.

The required fee of six hundred dollars (\$600) is submitted herewith.

Respectfully Submitted,

/Steven A. Freund/

Dated: September 24, 2014

By: _____

Steven A. Freund, Esq.
Attorney for Opposer
Law Office of Steven A. Freund
A Professional Corporation
P.O. Box 911457
Los Angeles, CA 90091

Phone: 310-284-7929

PROOF OF SERVICE

I hereby certify that this **Notice of Opposition** is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** was served on counsel for Applicant at the following address by First Class U.S. Mail, postage prepaid, on the date indicated below:

Robert B.G. Horowitz
Baker & Hostetler LLP
45 Rockefeller Plaza, 14th Floor
New York, New York 10111-0100

/Steven A. Freund/

Steven A. Freund, Esq

Date: September 24, 2014

EXHIBIT A

United States of America

United States Patent and Trademark Office



Reg. No. 4,304,304

Registered Mar. 19, 2013

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER

OAKHURST INDUSTRIES, INC. (CALIFORNIA CORPORATION), DBA FREUND BAKING CO.

P.O. BOX 911457
LOS ANGELES, CA 900911457

FOR: BAKERY PRODUCTS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1981; IN COMMERCE 1-1-1981.

THE MARK CONSISTS OF THE WORD "FREUND" IN WHITE, PLACED IN A BLUE BANNER. THE BANNER IS CENTERED ON A DOUBLE CIRCLE, THE INNER ELEMENT OF THE CIRCLE IN YELLOW AND THE OUTER ELEMENT OF THE CIRCLE IN RED. THE WORDS "SINCE 1856 AND BAKING CO." APPEAR IN YELLOW LETTERING AROUND THE OUTER CIRCLE. THIS DESIGN IS CONTAINED WITHIN A WHITE RECTANGLE WITH A THIN BLUE BORDER.

THE COLOR(S) WHITE, BLUE, YELLOW AND RED IS/ARE CLAIMED AS A FEATURE OF THE MARK.

SER. NO. 85-627,606, FILED 5-16-2012.

HENRY S. ZAK, EXAMINING ATTORNEY



Lisa Street Lee

Acting Director of the United States Patent and Trademark Office

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Mark: SINCE 1856 FREUND BAKING CO.



US Serial Number: 85627606
US Registration Number: 4304304
Filed as TEAS Plus: Yes
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Mar. 19, 2013
Publication Date: Jan. 01, 2013

Application Filing Date: May 16, 2012
Registration Date: Mar. 19, 2013
Currently TEAS Plus: Yes

Mark Information

Mark Literal Elements: SINCE 1856 FREUND BAKING CO.
Standard Character Claim: No
Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)
Description of Mark: The mark consists of the word "FREUND" in white, placed in a blue banner. The banner is centered on a double circle, the inner element of the circle in yellow and the outer element of the circle in red. The words "SINCE 1856 and BAKING CO." appear in yellow lettering around the outer circle. This design is contained within a white rectangle with a thin blue border.
Color Drawing: Yes
Color(s) Claimed: The color(s) White, Blue, Yellow and Red is/are claimed as a feature of the mark.
Design Search Code(s): 24.09.07 - Advertising, banners; Banners
26.01.01 - Circles as carriers or as single line borders
26.11.02 - Plain single line rectangles; Rectangles (single line)

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: Bakery products
International Class(es): 030 - Primary Class
U.S Class(es): 046
Class Status: ACTIVE
Basis: 1(a)
First Use: Jan. 01, 1981
Use in Commerce: Jan. 01, 1981

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Oakhurst Industries, Inc.
DBA, AKA, Formerly: DBA Freund Baking Co.
Owner Address: P.O. Box 911457
Los Angeles, CALIFORNIA 900911457
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Steven A. Freund, Esq.

Attorney Primary Email Address: sfreund@freundlawfirm.com

Attorney Email Authorized: No

Correspondent

Correspondent Name/Address: STEVEN A. FREUND, ESQ.
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LOS ANGELES, CALIFORNIA 90067-2325
UNITED STATES

Phone: 310-284-7929

Correspondent e-mail: sfreund@freundlawfirm.com npgesq@aol.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 19, 2013	REGISTERED-PRINCIPAL REGISTER	
Jan. 01, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 01, 2013	PUBLISHED FOR OPPOSITION	
Dec. 12, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Nov. 29, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Nov. 27, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 27, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	68123
Nov. 27, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Nov. 13, 2012	ASSIGNED TO LIE	68123
Oct. 22, 2012	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 17, 2012	NOTIFICATION OF PRIORITY ACTION E-MAILED	6326
Oct. 17, 2012	PRIORITY ACTION E-MAILED	6326
Oct. 17, 2012	PRIORITY ACTION WRITTEN	62126
Oct. 05, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 04, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 04, 2012	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 12, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 12, 2012	NON-FINAL ACTION E-MAILED	6325
Sep. 12, 2012	NON-FINAL ACTION WRITTEN	62126
Sep. 06, 2012	ASSIGNED TO EXAMINER	62126
May 23, 2012	NOTICE OF DESIGN SEARCH CODE MAILED	
May 22, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 19, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Mar. 19, 2013

United States of America

United States Patent and Trademark Office



Reg. No. 4,500,792

Registered Mar. 25, 2014

Int. Cl.: 40

SERVICE MARK

PRINCIPAL REGISTER

OAKHURST INDUSTRIES, INC. (CALIFORNIA CORPORATION), DBA FREUND BAKING CO.

P.O. BOX 911457
LOS ANGELES, CA 900911457

FOR: PRIVATE LABEL BAKING SERVICES, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

FIRST USE 1-1-1981; IN COMMERCE 1-1-1994.

OWNER OF U.S. REG. NO. 4,304,304.

THE COLOR(S) WHITE, BLUE, YELLOW AND RED IS/ARE CLAIMED AS A FEATURE OF THE MARK.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SINCE 1856" AND "BAKING CO.", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORD "FREUND" IN WHITE, PLACED IN A BLUE BANNER. THE BANNER IS CENTERED ON A DOUBLE CIRCLE, THE INNER ELEMENT OF THE CIRCLE IN YELLOW AND THE OUTER ELEMENT OF THE CIRCLE IN RED. THE WORDS "SINCE 1856" AND "BAKING CO." APPEAR IN YELLOW LETTERING AROUND THE OUTER CIRCLE. THIS DESIGN IS CONTAINED WITHIN A WHITE RECTANGLE WITH A THIN BLUE BORDER.

SER. NO. 85-946,497, FILED 5-30-2013.

TINA BROWN, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

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Mark: SINCE 1856 FREUND BAKING CO.



US Serial Number: 85946497
US Registration Number: 4500792
Register: Principal
Mark Type: Service Mark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Mar. 25, 2014
Publication Date: Jan. 07, 2014

Application Filing Date: May 30, 2013
Registration Date: Mar. 25, 2014

Mark Information

Mark Literal Elements: SINCE 1856 FREUND BAKING CO.
Standard Character Claim: No
Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)
Description of Mark: The mark consists of the word "FREUND" in white, placed in a blue banner. The banner is centered on a double circle, the inner element of the circle in yellow and the outer element of the circle in red. The words "SINCE 1856" and "BAKING CO." appear in yellow lettering around the outer circle. This design is contained within a white rectangle with a thin blue border.
Color Drawing: Yes
Color(s) Claimed: The color(s) white, blue, yellow and red is/are claimed as a feature of the mark.
Disclaimer: "SINCE 1856" AND "BAKING CO."
Design Search Code(s): 24.09.07 - Advertising, banners; Banners
26.01.20 - Circles within a circle
26.01.21 - Circles that are totally or partially shaded.
26.11.01 - Rectangles as carriers or rectangles as single or multiple line borders
26.13.21 - Quadrilaterals that are completely or partially shaded

Related Properties Information

Claimed Ownership of US Registrations: 4304304

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: Private label baking services
International Class(es): 040 - Primary Class
U.S Class(es): 100, 103, 106
Class Status: ACTIVE
Basis: 1(a)
First Use: Jan. 01, 1981
Use in Commerce: Jan. 01, 1994

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Oakhurst Industries, Inc.
DBA, AKA, Formerly: DBA Freund Baking Co.
Owner Address: P.O. Box 911457
Los Angeles, CALIFORNIA 900911457
UNITED STATES
Legal Entity Type: CORPORATION
State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Steven Freund
Attorney Primary Email Address: sfreund@freundlawfirm.com
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: STEVEN FREUND
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UNITED STATES
Phone: 310-284-7929
Correspondent e-mail: sfreund@freundlawfirm.com npgesq@aol.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 25, 2014	REGISTERED-PRINCIPAL REGISTER	
Jan. 07, 2014	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 07, 2014	PUBLISHED FOR OPPOSITION	
Dec. 18, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 05, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	70884
Dec. 03, 2013	ASSIGNED TO LIE	70884
Nov. 07, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 05, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Nov. 04, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Nov. 04, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 14, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 14, 2013	NON-FINAL ACTION E-MAILED	6325
Sep. 14, 2013	NON-FINAL ACTION WRITTEN	81858
Sep. 13, 2013	ASSIGNED TO EXAMINER	81858
Jun. 11, 2013	NOTICE OF DESIGN SEARCH CODE E-MAILED	
Jun. 10, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 03, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Mar. 25, 2014