

ESTTA Tracking number: **ESTTA635709**

Filing date: **10/29/2014**

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	Les Trois Petits Cochons, Inc.
Granted to Date of previous extension	10/29/2014
Address	4223 1st Avenue Brooklyn, NY 11232 UNITED STATES

Correspondence information	Les Trois Petits Cochons, Inc. Amster, Rothstein & Ebenstein LLP 4223 1st Avenue Brooklyn, NY 11232 UNITED STATES ptodocket@arelaw.com Phone:2123368110
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### Applicant Information

Application No	86101426	Publication date	07/01/2014
Opposition Filing Date	10/29/2014	Opposition Period Ends	10/29/2014
Applicant	Petit Cochon, KTK, LLC 1849 Shattuck Avenue Berkeley, CA 94805 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. First Use: 2013/09/15 First Use In Commerce: 2013/10/01 All goods and services in the class are opposed, namely: Retail store services featuring a wide variety of foods and food related products
Class 043. First Use: 2013/09/15 First Use In Commerce: 2013/10/01 All goods and services in the class are opposed, namely: Cafe, restaurant and prepared take-out restaurant services

### Applicant Information

Application No	86157900	Publication date	07/01/2014
Opposition Filing Date	10/29/2014	Opposition Period Ends	
Applicant	Petit Cochon KTK LLC 1801 Shattuck Ave., Suite C Berkeley, CA 94709 UNITED STATES		

## Goods/Services Affected by Opposition

Class 035. First Use: 2013/10/20 First Use In Commerce: 2013/10/20 All goods and services in the class are opposed, namely: Retail store services featuring a wide variety of food related products
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## Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
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.	1961744	Application Date	02/08/1995
Registration Date	03/12/1996	Foreign Priority Date	NONE
Word Mark	TROIS PETITS COCHONS THREE LITTLE PIGS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1993/03/01 First Use In Commerce: 1993/03/01 meat pates, cooked sausage and pickles		

U.S. Registration No.	3035151	Application Date	10/14/2004
Registration Date	12/27/2005	Foreign Priority Date	NONE
Word Mark	TROIS PETITS COCHONS THREE LITTLE PIGS		

Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1993/03/01 First Use In Commerce: 1993/03/01 fresh and smoked salmon mousse with chopped spinach; pork-free mousse made with duck foie gras, duck liver and duck meat; a pork-free pate made with chicken meat; pate made of a combination of duck and pork with pistachios and Grand Marnier; a vegetable terrine made of broccoli, spinach, carrots and cauliflower; pure pork sausage naturally air-dried; cooked ham with natural juices; and ceps dried whole</p> <p>Class 030. First use: First Use: 1998/08/20 First Use In Commerce: 1998/08/20 small toast; and dijon mustard</p>		
U.S. Registration No.	3205761	Application Date	03/27/2006
Registration Date	02/06/2007	Foreign Priority Date	NONE
Word Mark	TROIS PETITS COCHONS THREE LITTLE PIGS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1991/03/31 First Use In Commerce: 1991/03/31 Vegetable pates, seafood pates, fish pates, and poultry pates Class 030. First use: First Use: 2003/08/26 First Use In Commerce: 2003/08/26 Mustard

U.S. Registration No.	4549919	Application Date	03/21/2012
Registration Date	06/17/2014	Foreign Priority Date	NONE
Word Mark	TROIS PETITS COCHONS		
Design Mark	<p style="text-align: center; font-size: 2em; font-weight: bold;">TROIS PETITS COCHONS</p>		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1991/03/31 First Use In Commerce: 1991/03/31 Pates, mousses and terrines made of meat, seafood, fish, poultry or vegetables; cooked, smoked, cured and dried meats and sausages; cooked ham; foie gras; preserved, dried and cooked mushrooms and vegetables Class 030. First use: First Use: 1998/08/20 First Use In Commerce: 1998/08/20 Toast; mustard		

U.S. Registration No.	4549918	Application Date	03/21/2012
Registration Date	06/17/2014	Foreign Priority Date	NONE
Word Mark	THREE LITTLE PIGS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1991/03/31 First Use In Commerce: 1991/03/31 Pates, mousses and terrines made of meat, seafood, fish, poultry or vegetables; cooked, smoked, cured and dried meats and sausages; cooked ham; foie gras; preserved, dried and cooked mushrooms and vegetables Class 030. First use: First Use: 1998/08/20 First Use In Commerce: 1998/08/20 Toast; mustard		

Attachments	74631507#TMSN.png( bytes ) 78499733#TMSN.png( bytes ) 78846618#TMSN.png( bytes ) 85575489#TMSN.png( bytes ) 85575473#TMSN.png( bytes ) Notice_of_Opposition_20141028.pdf(413932 bytes ) Exhibits_A_through_E_to_Notice_of_Opposition.pdf(224772 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 Overnight Courier on this date.

Signature	/Anthony F. Lo Cicero/
Name	Les Trois Petits Cochons, Inc.
Date	10/29/2014

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

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LES TROIS PETITS COCHONS, INC.,	:	Application Serial No. 86/101,426
	:	Filing Date: October 25, 2013
Opposer,	:	Publication Date: July 1, 2014
	:	Trademark: LE PETIT COCHON
v.	:	
	:	
PETIT COCHON KTK, LLC,	:	Application Serial No. 86/157,900
	:	Filing Date: January 6, 2014
Applicant.	:	Publication Date: July 1, 2014
	:	Trademark: LE PETIT COCHON FRENCH
	:	CAFÉ & BOUTIQUE
	:	

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**NOTICE OF OPPOSITION**

In the matter of U.S. Trademark Application Serial Nos. 86/101,426 and 86/157,900 filed by Petit Cochon KTK, LLC (“Applicant”) on October 25, 2013 and January 6, 2014, respectively, and both published for opposition in the July 1, 2014 issue of the Official Gazette of the United States Patent and Trademark Office for the trademarks LE PETIT COCHON and LE PETIT COCHON FRENCH CAFÉ & BOUTIQUE (the “Accused Marks”) as applied to retail store services featuring a wide variety of food related products in Class 35 (the “Subject Applications”).

As grounds for opposition of the above identified trademark Application, opposer Les Trois Petits Cochons, Inc. (“Opposer”), by and through its attorneys, alleges as follows:

1. Opposer, a corporation organized and existing under the laws of the State of New York, located and doing business at 4223 1<sup>st</sup> Avenue, Brooklyn, New York 11232 (“Opposer”), believes that it will be damaged by the registration of the Subject Applications and hereby opposes the same.

2. Opposer is and has been a well-known producer of all natural charcuterie and pâté products since 1975 and is one of the most highly-decorated specialty food companies in North

America. Opposer's numerous awards include "Gold Sofi" awards given to the best specialty foods in their class by The National Association for the Specialty Food Trade, the preeminent American specialty food trade organization.

3. Opposer began as a small charcuterie in Greenwich Village, New York City, and today it leads the pâté and charcuterie industry, offering a complete line of sausages, saucissons, smoked meats, artisanal pâtés, mousses, terrines, and other specialties under the trademarks TROIS PETITS COCHONS THREE LITTLE PIGS, TROIS PETITS COCHONS and THREE LITTLE PIGS ("Opposer's Marks").

4. Since at least as early as 1991, Opposer has used Opposer's Marks in conjunction with its charcuterie meats and related food products.

5. Opposer is the owner of the following registrations for the TROIS PETITS COCHONS THREE LITTLE PIGS mark which are incontestable under Section 15 of the Trademark Act, 15 U.S.C. §1065:

- a. U.S. Trademark Registration No. 1,961,744, issued March 12, 1996, for meat pates, cooked sausage and pickles;
- b. U.S. Trademark Registration No. 3,035,151, issued December 27, 2005, for fresh and smoked salmon mousse with chopped spinach; pork-free mousse made with duck foie gras, duck liver and duck meat; a pork-free pate made with chicken meat; pate made of a combination of duck and pork with pistachios and Grand Marnier; a vegetable terrine made of broccoli, spinach, carrots and cauliflower; pure pork sausage naturally air-dried; cooked ham with natural juices; cepes dried whole; small toast; and Dijon mustard; and
- c. U.S. Trademark Registration No. 3,205,761, issued February 6, 2007, for vegetable pates, seafood pates, fish pates, and poultry pates; and mustard.

6. In addition to the above incontestable registrations, our client also has the following registrations:

- a. U.S. Trademark Registration No. 4,549,919, issued June 17, 2014, for the mark TROIS PETITS COCHONS covering: pates, mousses and terrines

made of meat, seafood, fish, poultry or vegetables; cooked, smoked, cured and dried meats and sausages; cooked ham; foie gras; preserved, dried and cooked mushrooms and vegetables in International Class 29, and toast, mustard in International Class 30.

- b. U.S. Trademark Registration No. 4,549,918, issued June 17, 2014, for the mark THREE LITTLE PIGS covering: pates, mousses and terrines made of meat, seafood, fish, poultry or vegetables; cooked, smoked, cured and dried meats and sausages; cooked ham; foie gras; preserved, dried and cooked mushrooms and vegetables in International Class 29, and toast, mustard in International Class 30.

7. Copies of these registrations are annexed hereto as Exhibits A through E, respectively.

8. Opposer's use of Opposer's Marks has been continuous since first use and, since that time, the goods offered under the marks have been extensively promoted and sold throughout the United States: in brick and mortar shops; through its mail order, telephone order, and internet businesses; and through several well-known internet retailers.

9. The Opposer's Marks, by reason of the high quality of food products provided under the marks, have come to be known to the purchasing public as representing the highest quality products. As a result thereof, the Opposer's Marks and the goodwill associated therewith are of inestimable value to Opposer.

10. By virtue of the renown acquired by the Opposer's Marks, coupled with Opposer's reputation for high quality products, the Opposer's Marks have acquired secondary meaning and have developed an enviable reputation in the minds of the purchasing public.

11. Long after Opposer commenced use of and applied to register the Opposer's Marks, and long after the Opposer's Marks became well known to consumers, Applicant applied to register the Accused Marks.

12. The Accused Marks are confusingly similar to the Opposer's Marks. The likelihood of confusion is exacerbated because the Opposer's Marks are used for food products, and the Accused Marks are used for retail store services featuring a wide variety of food products.

13. Based on the foregoing, the use and/or registration of the Accused Marks by Applicant is likely to cause confusion and mistake in the minds of the purchasing public, and, in particular, will, upon information and belief, tend to falsely create the impression that the products sold under the Accused Marks are authorized, sponsored, or approved by Opposer when, in fact, they are not.

14. Accordingly, it is Opposer's belief that if Applicant is granted the registrations opposed herein, Opposer will suffer irreparable harm and damage.

\* \* \* \* \*

**WHEREFORE**, Opposer respectfully requests that the marks shown in U.S. Trademark Application Serial Nos. 86/101,426 and 86/157,900 be refused registration and that this Opposition be sustained.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP  
Attorneys for Opposer  
Les Trois Petits Cochons, Inc.  
90 Park Avenue  
New York, New York 10016  
(212) 336-8000

Dated: New York, New York  
October 28, 2014

By:   
\_\_\_\_\_  
Anthony R. Lo Cicero  
Marc J. Jason

**CERTIFICATE OF SERVICE**

I hereby certify that true and complete copies of the foregoing NOTICE OF OPPOSITION have been served on Applicant Petit Cochon KTK, LLC by delivering said copies via Federal Express, overnight delivery, prepaid to Applicant and its attorney of record, as follows:

Applicant

Petit Cochon KTK, LLC  
1801 Shattuck Ave., Suite C  
Berkeley, CA 94709

Applicant's Attorney of Record

Christopher J. Day, Esq.  
Law Office of Christopher Day  
9977 North 90<sup>th</sup> street, Suite 155  
Scottsdale, AZ 85258

By: \_\_\_\_\_



Marc J. Jason

Dated: New York, New York  
October 28, 2014

# EXHIBIT A

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,961,744

Registered Mar. 12, 1996

TRADEMARK  
PRINCIPAL REGISTER



LES TROIS PETITS COCHONS, INC. (NEW  
YORK CORPORATION)  
453 GREENWICH STREET  
NEW YORK, NY 10013

OWNER OF U.S. REG. NO. 1,551,145.

THE MARK TRANSLATES INTO ENGLISH  
AS "THREE LITTLE PIGS".

FOR: MEAT PATES, COOKED SAUSAGE  
AND PICKLES, IN CLASS 29 (U.S. CL. 46).  
FIRST USE 3-1-1993; IN COMMERCE  
3-1-1993.

SER. NO. 74-631,507, FILED 2-8-1995.

CAROLYN GRAY, EXAMINING ATTORNEY

# EXHIBIT B

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,035,151

Registered Dec. 27, 2005

TRADEMARK  
PRINCIPAL REGISTER



LES TROIS PETITS COCHONS, INC. (NEW YORK CORPORATION)  
453 GREENWICH STREET  
NEW YORK, NY 10013

FOR: FRESH AND SMOKED SALMON MOUSSE WITH CHOPPED SPINACH; PORK-FREE MOUSSE MADE WITH DUCK FOIE GRAS, DUCK LIVER AND DUCK MEAT; A PORK-FREE PATE MADE WITH CHICKEN MEAT; PATE MADE OF A COMBINATION OF DUCK AND PORK WITH PISTACHIOS AND GRAND MARNIER; A VEGETABLE TERRINE MADE OF BROCCOLI, SPINACH, CARROTS AND CAULIFLOWER; PURE PORK SAUSAGE NATURALLY AIR-DRIED; COOKED HAM WITH NATURAL JUICES; AND CEPES DRIED WHOLE, IN CLASS 29 (U.S. CL. 46).

FIRST USE 3-1-1993; IN COMMERCE 3-1-1993.

FOR: SMALL TOAST; AND DIJON MUSTARD, IN CLASS 30 (U.S. CL. 46).

FIRST USE 8-20-1998; IN COMMERCE 8-20-1998.

OWNER OF U.S. REG. NO. 1,961,744.

THE ENGLISH TRANSLATION OF TROIS PETITS COCHONS IS THREE LITTLE PIGS.

SER. NO. 78-499,733, FILED 10-14-2004.

MITCHELL FRONT, EXAMINING ATTORNEY

# EXHIBIT C

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,205,761

Registered Feb. 6, 2007

TRADEMARK  
PRINCIPAL REGISTER



LES TROIS PETITS COCHONS, INC. (NEW YORK CORPORATION)  
453 GREENWICH STREET  
NEW YORK, NY 10013

FOR: VEGETABLE PATES, SEAFOOD PATES, FISH PATES, AND POULTRY PATES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 3-31-1991; IN COMMERCE 3-31-1991.

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

FIRST USE 8-26-2003; IN COMMERCE 8-26-2003.

OWNER OF U.S. REG. NOS. 1,961,744, 3,035,151 AND OTHERS.

THE ENGLISH TRANSLATION OF TROIS PETITS COCHONS IS THREE LITTLE PIGS.

SER. NO. 78-846,618, FILED 3-27-2006.

RAY THOMAS, EXAMINING ATTORNEY

# EXHIBIT D

# United States of America

United States Patent and Trademark Office

## TROIS PETITS COCHONS

**Reg. No. 4,549,919**

LES TROIS PETITS COCHONS, INC. (NEW YORK CORPORATION)  
4223 1ST AVENUE

**Registered June 17, 2014**

BROOKLYN, NY 11232

**Int. Cls.: 29 and 30**

FOR: PATES, MOUSSES AND TERRINES MADE OF MEAT, SEAFOOD, FISH, POULTRY OR VEGETABLES; COOKED, SMOKED, CURED AND DRIED MEATS AND SAUSAGES; COOKED HAM; FOIE GRAS; PRESERVED, DRIED AND COOKED MUSHROOMS AND VEGETABLES, IN CLASS 29 (U.S. CL. 46).

**TRADEMARK**

**PRINCIPAL REGISTER**

FIRST USE 3-31-1991; IN COMMERCE 3-31-1991.

FOR: TOAST; MUSTARD, IN CLASS 30 (U.S. CL. 46).

FIRST USE 8-20-1998; IN COMMERCE 8-20-1998.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,961,744, 3,035,151, AND 3,205,761.

THE ENGLISH TRANSLATION OF "TROIS PETITS COCHONS" IN THE MARK IS "THREE LITTLE PIGS".

SER. NO. 85-575,489, FILED 3-21-2012.

MARY ROSSMAN, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office

# EXHIBIT E

# United States of America

United States Patent and Trademark Office

## THREE LITTLE PIGS

**Reg. No. 4,549,918**

LES TROIS PETITS COCHONS, INC. (NEW YORK CORPORATION)  
4223 1ST AVENUE

**Registered June 17, 2014**

BROOKLYN, NY 11232

**Int. Cls.: 29 and 30**

FOR: PATES, MOUSSES AND TERRINES MADE OF MEAT, SEAFOOD, FISH, POULTRY OR VEGETABLES; COOKED, SMOKED, CURED AND DRIED MEATS AND SAUSAGES; COOKED HAM; FOIE GRAS; PRESERVED, DRIED AND COOKED MUSHROOMS AND VEGETABLES, IN CLASS 29 (U.S. CL. 46).

**TRADEMARK**

**PRINCIPAL REGISTER**

FIRST USE 3-31-1991; IN COMMERCE 3-31-1991.

FOR: TOAST; MUSTARD, IN CLASS 30 (U.S. CL. 46).

FIRST USE 8-20-1998; IN COMMERCE 8-20-1998.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,961,744, 3,035,151, AND 3,205,761.

SER. NO. 85-575,473, FILED 3-21-2012.

MARY ROSSMAN, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office