

ESTTA Tracking number: **ESTTA737792**

Filing date: **04/04/2016**

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

Proceeding	91227188
Party	Plaintiff Le Pafe, Inc.
Correspondence Address	Kevin M. Welch The Law Office of Kevin M. Welch P.O. Box 494 Hermosa Beach, CA 90254 UNITED STATES kevin@kmwlawoffice.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Kevin M. Welch
Filer's e-mail	kevin@kmwlawoffice.com
Signature	/Kevin M. Welch/
Date	04/04/2016
Attachments	First Amended Complaint.pdf(420012 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEALS BOARD

In the Matter of Trademark Application:  
Serial No.: 86695837  
For the Mark: LE CHEF PATISSIER  
Date filed: July 16, 2015

<p>LE PAFE, INC,</p> <p style="text-align: center;">Opposer,</p> <p>v.</p> <p>OVERSEAS FOOD TRADING, LTD,</p> <p style="text-align: center;">Applicant.</p>	<p style="text-align: center;">Opposition No. 91227188</p>
---	--

**FIRST AMENDED PETITION OF OPPOSITION**

Opposer, Le Pafe, Inc. (“Opposer”), a California corporation with an address of 7547 Telegraph Road, Montebello CA 90640, believes that it will be damaged by application serial no.: 86/695837 and hereby opposes the same.

Upon information and belief, Applicant Overseas Food Trading LTD (“Applicant”) is a corporation organized and existing under the laws of the state of New Jersey, with an address of 2200 Fletcher Avenue, 3<sup>rd</sup> Floor, Fort Lee, NJ 07024.

**Description of Applicant's Application:**

Applicant's application serial no.: 86/695837, filed on July 16, 2016, is for a stylized mark including the words LE CHEF PATISSIER for *candies; chocolates; chocolate truffles; cookies; cakes; pastries* in international class 030.

**Description of the Grounds for Opposition:**

Opposer, on personal knowledge as to its own actions and on information and belief as to the actions of others, pleads that:

1. Opposer is the owner of the word mark LE CHEF BAKERY, reg. no. 4888616 for *bakery products; bread; pastries; bagels; muffins; frozen yogurt and frozen confectionery; ice-cream; desserts, namely, cookies, cakes, cup cakes, pies, brownies, bars, tortes, tarts, dough shells and doughnuts; pre-baked and thaw and serve pastries and bread* in international class 030;
2. Opposer has used its word mark LE CHEF BAKERY, reg. no. 4888616, continuously in United States commerce since at least as early as February 25, 1992;
3. Opposer has not abandoned its word mark LE CHEF BAKERY, reg. no. 4888616, either expressly or by non-use;
4. Opposer is the owner of the word mark LE CHEF BAKERY, reg. no. 1791082 for *distributorship services in the field of bakery supplies; namely, frozen or baked bread products, cakes, and pastries* in international class 042;
5. Opposer has used its word mark LE CHEF BAKERY, reg. no. 1791082, continuously in United States commerce since at least as early as February 25, 1992;
6. Opposer has not abandoned its word mark LE CHEF BAKERY, reg. nos. 1791082, either expressly or by non-use;

7. Opposer is the owner of the stylized mark LE CHEF BAKERY, reg. no. 4811907 for *distributorship services in the field of bakery supplies, namely, frozen or baked bread products, cakes, and pastries* in international class 035;
8. Opposer has used its stylized mark LE CHEF BAKERY, reg. no. 4811907, continuously in United States commerce since at least as early as February 25, 1992;
9. Opposer has not abandoned its stylized mark LE CHEF BAKERY, reg. no. 4811907, either expressly or by non-use;
10. Opposer is the owner of the word mark LE CHEF, reg. no. 3727523 for *bakery products; bread; pastries; bagels; muffins; frozen yogurt and frozen confectionery; ice-cream; desserts, namely, cookies, cakes, cup cakes, pies, brownies, bars, tortes, tarts, dough shells and doughnuts; pre-baked and thaw and serve pastries and bread* in international class 030.
11. Opposer has used its word mark LE CHEF, reg. no. 3727523, continuously in United States commerce since at least as early as February 25, 1992;
12. Opposer has not abandoned its word mark LE CHEF, reg. no. 3727523, either expressly or by non-use;
13. Opposer is the owner of the word mark LE CHEF, reg. no. 4874351 for *distributorship services in the field of bakery supplies; namely, frozen or baked bread products, cakes, and pastries* in international class 035.
14. Opposer has used its word mark LE CHEF, reg. no. 4874351, continuously in United States commerce since at least as early as February 25, 1992;
15. Opposer has not abandoned its word mark LE CHEF, reg. no. 4874351, either expressly or by non-use;

16. Applicant's application is for a mark that is so similar to Opposer's mark reg. nos. 4888616, 1791082, 4811907, 3727523, and 4874351 (herein after Opposer's Marks) that the word portion differs only by the word PATISSIER which translates to BAKER;
17. The stylized illustration included in Applicant's mark is a chef's hat which is descriptive of a baker or bakery;
18. Applicant's application serial no.: 86/695837 for the mark LE CHEF PATISSIER so resembles Opposer's Marks as to be likely, when used on or in connection with Applicant's goods and services, to cause confusion or to cause mistake or to deceive;
19. Opposer is the senior and prior user of Opposer's Marks, and the allowance Applicant's application will harm Opposer as it will cause consumer confusion, consumer mistake, consumer deception, and harm the goodwill of Opposer's marks, and; therefore, Applicant's application should be denied pursuant to §2(d) of the Act, 15 U.S.C. §1052(d);
20. Applicant's application serial no.: 86695837 so resembles Opposer's Mark and services that the use of the applied-for mark falsely suggests an affiliation or connection between Applicant and Opposer;
21. Opposer will likely be damaged by the registration of Applicant's application for the mark LE CHEF PATISSIER, serial no.: 86695837; therefore, it should be denied pursuant to §2(a) of the Act, 15 U.S.C. §1052(a);

Please direct all correspondence and communications in this Opposition to the undersigned.

Dated: April 4, 2016

Respectfully Submitted

By:



Kevin M. Welch  
The Law Office of Kevin M. Welch  
P.O. Box 494  
Hermosa Beach, CA 90254  
Email: Kevin@kmwlawoffice.com  
Tel: (310) 929-0553  
Fax: (310) 698-1626

Attorney for Le Pafe, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the following document:

FIRST AMENDED PETITION OF OPPOSITION

has been served upon Applicant Over , by U.S. First Class Mail, postage prepaid, on April 4, 2016 at the following addresses:

Leslie Steinau, Esq.  
Wilk Auslander, LP  
1515 Broadway, RM 43  
New York, New York 10036-8901

Dated: April 4, 2016

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

Kevin M. Welch



The Law Office of Kevin M. Welch  
P.O. Box 494,  
Hermosa Beach, CA 90254  
Tel.: (310) 929-0553  
Fax (310) 698-1626

Attorney for Opposer  
Le Pafe, Inc.