

ESTTA Tracking number: **ESTTA769766**

Filing date: **09/09/2016**

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	Societe des Produits Nestle S.A.
Granted to Date of previous extension	09/11/2016
Address	Case Postale 353 Vevey, 1800 SWITZERLAND

Attorney information	Hope Hamilton Holland & Hart LLP P.O. Box 8749 Attn: Trademark Docketing Denver, CO 80201 UNITED STATES docket@hollandhart.com, aanderson@hollandhart.com, hihamilton@hollandhart.com, tdshimada@hollandhart.com, mamoore@hollandhart.com, jguy@hollandhart.co
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Applicant Information

Application No	86668520	Publication date	03/15/2016
Opposition Filing Date	09/09/2016	Opposition Period Ends	09/11/2016
Applicant	Spice Tribe, LLC 3110 Edwards Mill Road, Suite 100 Raleigh, NC 27612 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Honey; Baking spices; Dry spice rub formcats and fish; edible spices; instant spice blends; spice blends, spice rubs; spices

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3042140	Application Date	11/15/2001
Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	TRIBE		

Design Mark	TRIBE
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2005/04/00 First Use In Commerce: 2005/04/00 MEDITERRANEAN FOODS, NAMELY, HUMMUS, [BABA GANOUSH, EGG-PLANT SALAD AND VEGETABLE SPREADS; SEAFOOD PRODUCTS, NAMELY, HERRING AND SALMON; PREPARED VEGETABLES; AND SALADS AND SPREADS CONSISTING PRIMARILY OF BEANS] Class 030. First use: First Use: 2005/10/13 First Use In Commerce: 2005/10/13 [TABOULI]

U.S. Registration No.	4525331	Application Date	09/06/2013
Registration Date	05/06/2014	Foreign Priority Date	NONE

Word Mark	TRIBE
Design Mark	
Description of Mark	The mark consists of a stylized version of the word "TRIBE".
Goods/Services	Class 029. First use: First Use: 2013/06/02 First Use In Commerce: 2013/06/12 Hummus

U.S. Registration	4627324	Application Date	09/06/2013
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No.			
Registration Date	10/28/2014	Foreign Priority Date	NONE
Word Mark	TRIBE		
Design Mark			
Description of Mark	<p>The mark consists of a shaded design comprising slightly more than half of a circle featuring additional wording and designs. The word "TRIBE" appears in lightshading across the top center of the semi-circle. Designs of four circular shapes representing chick peas appear on the left side of the mark. A design of a ribbon shape in light shading appears under the word "TRIBE", extending from the left of the mark to a little more than half way to the right side.</p>		
Goods/Services	<p>Class 029. First use: First Use: 2013/06/02 First Use In Commerce: 2013/06/12 Hummus</p>		

U.S. Registration No.	4627325	Application Date	09/06/2013
Registration Date	10/28/2014	Foreign Priority Date	NONE
Word Mark	TRIBE		
Design Mark			
Description of Mark	<p>The mark consists of a black design comprising slightly more than half of a circle featuring additional designs and wording. The word "TRIBE" appears in white across the top center of the semi-circle. Designs of four chick peas in beige appear on the left side of the mark. A design of a green ribbon shape appears under the word "TRIBE", extending from the left of the mark to a little more than</p>		

	half way to the right side.
Goods/Services	Class 029. First use: First Use: 2013/06/02 First Use In Commerce: 2013/07/02 Hummus

U.S. Registration No.	4761706	Application Date	05/23/2014
Registration Date	06/23/2015	Foreign Priority Date	NONE

Word Mark	TRIBE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 030. First use: First Use: 2014/06/30 First Use In Commerce: 2014/06/30 Food package combinations consisting of pita chips and hummus
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U.S. Registration No.	4765962	Application Date	08/13/2014
Registration Date	06/30/2015	Foreign Priority Date	NONE

Word Mark	TRIBE
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Design Mark	
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Description of Mark	The mark consists of the word "TRIBE" in stylized letters.
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Goods/Services	Class 030. First use: First Use: 2014/06/30 First Use In Commerce: 2014/06/30 Food package combinations consisting of pita chips and hummus		
U.S. Registration No.	3945892	Application Date	03/05/2010
Registration Date	04/12/2011	Foreign Priority Date	NONE
Word Mark	TRIBE ORIGINS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2010/08/31 First Use In Commerce: 2010/08/31 hummus		

Attachments	76337339#TMSN.png(bytes) 86057532#TMSN.png(bytes) 86057892#TMSN.png(bytes) 86057913#TMSN.png(bytes) 86290414#TMSN.png(bytes) 86365661#TMSN.png(bytes) 77952050#TMSN.png(bytes) SPICE TRIBE Notice of Opposition.pdf(34631 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	/Hope Hamilton/
Name	Hope Hamilton
Date	09/09/2016

3. Opposer and its exclusive licensee have invested significant resources in advertising and promoting hummus and related snack food products under the TRIBE Marks, and these products have enjoyed significant commercial success.

4. Opposer owns the following United States Trademark Registrations:

Trademark	Filing Date	Reg No. Reg Date.	Goods
TRIBE	Nov. 15, 2001	3042140 Jan. 10, 2006	Mediterranean foods, namely, hummus
	Sept. 6, 2013	4525331 May 6, 2014	Hummus
	Sept. 6, 2013	4627324 Oct. 28, 2014	Hummus
	Sept. 6, 2013	4627325 Oct. 28, 2014	Hummus
TRIBE	May 23, 2014	4761706 Jun. 23, 2015	Food package combinations consisting of pita chips and hummus
	Aug. 13, 2014	4765962 Jun. 30, 2015	Food package combinations consisting of pita chips and hummus
TRIBE ORIGINS	Mar. 5, 2010	3945892 Apr. 12, 2011	Hummus

5. Registration No. 3042140 is incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b), and therefore, constitutes conclusive evidence of the validity of the TRIBE mark and Opposer's exclusive right to use and license the mark in connection with the goods set forth in the registration.

6. Registration Nos. 4525331, 4627324, 4627325, 4761706, 4765962, and 3945892 are valid and subsisting and therefore constitute *prima facie* evidence of the validity of the TRIBE Marks and Opposer's exclusive right to use and license the TRIBE Marks in connection with the goods set forth in the registrations.

7. These registrations also provide constructive notice of Opposer's ownership of its TRIBE Marks.

COUNT I
Likelihood of Confusion
(15 U.S.C. § 1052(d))

8. Opposer realleges and incorporates by reference the preceding allegations of this Notice of Opposition.

9. The SPICE TRIBE mark set forth in the Application so closely resembles Opposer's prior used and registered TRIBE Marks as to be likely, when used in connection with the goods set forth in the Application, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer believes that it will be damaged by registration of the mark shown in the Application and respectfully requests that the opposition be sustained and that registration to Applicant be refused.

The filing fee, in the amount of \$300, is being transmitted electronically with this submission. Any deficiency in the fee should be charged to Deposit Account No. 082623.

September 9, 2016

Respectfully submitted,

/s/ Hope Hamilton
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Société des Produits Nestlé S.A.

CERTIFICATE OF SERVICE

I certify that on September 9, 2016, I served copies of the above **NOTICE OF OPPOSITION** to the following by email and U.S. Mail, postage prepaid:

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/s/ Jane Guy

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