

ESTTA Tracking number: **ESTTA773060**

Filing date: **09/27/2016**

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	INDUSTRIALIZADORA DE PRODUCTOS COMESTIBLES, S.A. DE C.V.		
Entity	Corporation	Citizenship	Mexico
Address	Cienaga del Pedregal 6 Irapuato, GTO 36810 MEXICO		

Attorney information	Miguel Munoz, Esq. Munoz-Lopez & Associates PLLC 40 Wall Street FL 28 New York, NY 10005 UNITED STATES miguel@munoz-lopez.com Phone:6465125847		
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### Applicant Information

Application No	86969274	Publication date	08/30/2016
Opposition Filing Date	09/27/2016	Opposition Period Ends	09/29/2016
Applicant	NAFTA DISTRIBUTORS 5120 Santa Ana Street Ontario, CA 917618632 UNITED STATES		

### Goods/Services Affected by Opposition

Class 030. First Use: 2016/03/00 First Use In Commerce: 2016/03/00 All goods and services in the class are opposed, namely: Candies; Mexican candy; Sweets
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### Grounds for Opposition

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

U.S. Registration No.	4293400	Application Date	03/21/2012
Registration Date	02/19/2013	Foreign Priority Date	NONE
Word Mark	IPC LLUVIA DE ARCOIRIS		

Design Mark	
Description of Mark	The mark consists of a rainbow design above the wording "LLUVIA DE ARCOIRIS" instylized letters. To the left of the design appears the stylized letters "IPC",formed by an abstract figure containingthree horizontally positioned ovals, one of them with an opening on the right side, and two vertical columns.
Goods/Services	Class 030. First use: First Use: 2012/02/10 First Use In Commerce: 2012/10/30 Candies; Wafers

Attachments	85575898#TMSN.png( bytes ) Arcoiris_Notice of Opposition_09-27-2016.pdf(109411 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	/Miguel Munoz/
Name	Miguel Munoz, Esq.
Date	09/27/2016

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

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INDUSTRIALIZADORA DE PRODUCTOS :  
COMESTIBLES, S.A. DE C.V. :  
Opposer :  
:  
v. :  
:  
NAFTA DISTRIBUTORS :  
Applicant :  
:  
----- X

Opposition No. \_\_\_\_\_

NOTICE OF OPPOSITION

Opposer INDUSTRIALIZADORA DE PRODUCTOS COMESTIBLES, S.A. DE C.V. (“Opposer”), believes that it will be damaged by the registration of U.S. Application Serial No. 86/969274 for the mark MI DULCE MEXICO OBLEAS ARCOIRIS and design (the “Application”), and hereby opposes the application. The grounds for opposition are as follows:

PRIORITY AND LIKELIHOOD OF CONFUSION

1. Opposer owns the U.S. Registration No. 4293400 for the mark IPC LLUVIA DE ARCOIRIS and design, which is used in association with candies; wafers, in international class 030.
2. The English translation of "LLUVIA DE ARCOIRIS" in Opposer’s mark is RAIN OF RAINBOW.

3. Opposer has been selling candies and wafers under the mark IPC LLUVIA DE ARCOIRIS since at least as early as February 10, 2012, and in commerce since at least as early as October 30, 2012.

4. Opposer has used the mark IPC LLUVIA DE ARCOIRIS in commerce continuously since at least as early as October 30, 2012, and Opposer has not abandoned its mark.

5. On April 8, 2016, NAFTA DISTRIBUTORS (“Applicant”) filed U.S. Application Serial No. 86/969274 for the mark MI DULCE MEXICO OBLEAS ARCOIRIS and design for “candies; mexican candy; sweets” in international class 030 based on section 1(a) first used as of March 2016.

6. The English translation of "MI DULCE MEXICO OBLEAS ARCOIRIS" in Applicant’s mark is "MY MEXICAN CANDY WAFER RAINBOW".

7. From 2013 to 2015, Applicant was a U.S. distributor of Opposer’s candies and wafers under the mark IPC LLUVIA DE ARCOIRIS and design. Upon information and believe, Applicant became aware of Opposer’s mark and valuable goodwill during this period of time.

8. Applicant’s mark MI DULCE MEXICO OBLEAS ARCOIRIS and design, so resembles Opposer’s mark IPC LLUVIA DE ARCOIRIS and design, as to be likely to cause confusion.

9. Opposer’s mark is recognized and relied upon by the relevant consumer as identifying Opposer’s goods, particularly its RAINBOW literal element and design, and has come to represent and symbolize valuable goodwill.

10. Opposer used its IPC LLUVIA DE ARCOIRIS and design mark in commerce prior to Applicant.
11. Opposer used its IPC LLUVIA DE ARCOIRIS and design mark in commerce prior to the filing date of Applicant's application.
12. Applicant's application should be refused because there is a likelihood of confusion with Opposer's mark when used in connection with their respective goods, and because Opposer has priority of use.

WHEREFORE, Opposer requests that its opposition against U.S. Application Serial No. 86/969274 be sustained.

Dated: September 27, 2016

Respectfully submitted,

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Miguel Muñoz, Esq.  
Attorney for Opposer

Muñoz-López & Associates PLLC  
40 Wall Street, FL 28  
New York, NY 10005  
Tel. (646) 512-5748

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date a true and correct copy of the **Notice of Opposition** was mailed to Applicant's Attorney of Record and Correspondent via First Class Mail, postage prepaid, to:

CHRISTOPHER J. DAY  
LAW OFFICE OF CHRISTOPHER DAY  
9977 NORTH 90TH STREET, SUITE 155  
SCOTTSDALE, ARIZONA UNITED STATES 85258

September 27, 2016

\_\_\_\_\_/MM/\_\_\_\_\_  
Miguel Muñoz, Esq.