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

Proceeding	92053501
Party	Plaintiff Christian M. Ziebarth
Correspondence Address	KELLY K PFEIFFER AMEZCUA-MOLL ASSOCIATES PC LINCOLN PROFESSIONAL CENTER, 1122 E LINCOLN AVE SUITE 203 ORANGE, CA 92865 UNITED STATES kelly@amalaw.net, kelpfeiffer@aol.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Kelly K. Pfeiffer
Filer's e-mail	kelly@amalaw.net
Signature	/Kelly K. Pfeiffer/
Date	09/30/2013
Attachments	P's Notice of Reliance - Disc Rsps CW (1 of 6).pdf(5193589 bytes )

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

In the Matter of Registration No. 1043729  
Date of Registration: July 13, 1976

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CHRISTIAN M. ZIEBARTH  
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC  
Registrant.

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Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**PETITIONER'S NOTICE OF RELIANCE UNDER RULE 2.120(j)**

**(DISCOVERY RESPONSES)**

Pursuant to 37 C.F.R. § 2.120(j), Petitioner CHRISTIAN M. ZIEBARTH ("Petitioner")  
hereby introduces the following evidence into the record:

- I. RELIANCE ON ADVERSARY'S ANSWERS TO INTERROGATORIES
  - A. Interrogatories Nos. 1-17, Set 1, propounded to Registrant DEL TACO, LLC ("Del Taco") by Petitioner;
  - B. Responses of Del Taco to Interrogatories Nos. 1-17, Set 1;
  - C. Interrogatories Nos. 18, 19, 24, and 25, Set 2, propounded to Del Taco by Petitioner; and
  - D. Supplemental Responses of Del Taco to Interrogatories Nos. 18, 19, 24, and 25, Set 2.

II. RELIANCE ON ADVERSARY'S ANSWERS TO REQUESTS FOR ADMISSIONS

- A. Request for Admissions Nos. 1-17, Set 1, propounded to Del Taco by Petitioner;
- B. Responses of Del Taco to Request for Admissions Nos. 1-17, Set 1;
- C. Request for Admissions Nos. 22 and 23, Set 2, propounded to Del Taco by  
Petitioner; and
- D. Supplemental Responses of Del Taco to Request for Admissions Nos. 22 and 23,  
Set 2.

All documents listed above are attached hereto.

Respectfully submitted,

CHRISTIAN M. ZIEBARTH

By /Kelly K. Pfeiffer./  
Attorney for Petitioner  
Kelly K. Pfeiffer  
AMEZCUA-MOLL & ASSOCIATES, P.C.  
Lincoln Professional Center  
1122 E. Lincoln Ave., Suite 203  
Orange, CA 92865

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **PETITIONER'S NOTICE OF RELIANCE UNDER RULE 2.120(j) (DISCOVERY RESPONSES)** was served upon April L. Besl, DINSMORE & SHOHL, LLP , attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on September 30, 2013 and addressed as follows:

April L. Besl, Esq.  
DINSMORE & SHOHL, LLP  
255 East Fifth Street, Suite 1900  
Cincinnati, OH 45202

/Kelly K. Pfeiffer/  
\_\_\_\_\_  
Kelly K. Pfeiffer  
AMEZCUA-MOLL & ASSOCIATES, P.C.  
Lincoln Professional Center  
1122 E. Lincoln Ave., Suite 203  
Orange, CA 92865  
Attorney for Petitioner CHRISTIAN M. ZIEBARTH

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

Christian M. Ziebarth,  
an individual residing in California,  
Petitioner,

v.

Del Taco, LLC  
a California limited liability company,  
Respondent

Cancellation No. 92053501

**PETITIONER'S FIRST SET OF INTERROGATORIES (NOS. 1-17)**

Pursuant to the Rules of Practice of the United States Patent and Trademark Office ("PTO"), and the applicable Federal Rules of Civil Procedure ("FRCP"), Del Taco, LLC ("Del Taco"), is hereby required to answer separately and fully, in writing and under oath, each of the following Interrogatories.

**DEFINITIONS**

The following definitions and instructions shall apply to each of the Interrogatories herein:

1. The terms or words "Del Taco" and "Respondent" shall mean Del Taco, LLC, and any present or former owner, officer, director, employee, servant, agent, attorney or other representative acting on its behalf, and shall include any predecessor, successor, affiliate parent company, wholly-owned or partially-owned subsidiary or other related company either within the United States or a foreign country.

2. The term or word "NAUGLES" shall mean the trademark subject of U.S. Trademark Registration No. 1,043,729.

3. The term or word "restaurant" shall mean any place where food or beverages are served to the public.

4. The terms or words "name" or "named" shall have their normal dictionary definition, namely, the word or words by which an entity, business or restaurant is designated.

5. The terms or words "own" or "owned" shall have their normal dictionary definition and refer to the relationship between the Respondent and any business, including but not limited to a restaurant, that is under the control of or financially connected to the Respondent, including but not limited to a business that is affiliated with, franchised, leased, licensed, or operated by the Respondent.

6. The terms "all" and "each" shall be construed to include all and each.

7. The term "and" shall be construed to include "or" and *vice versa*, and shall be the logical equivalent of "and/or."

8. The use of the singular form of any word also includes the plural and vice versa.

#### **GENERAL INSTRUCTIONS**

1. If you claim that any information requested is privileged, please provide all information falling within the scope of the Interrogatory which is not privileged, and identify with sufficient particularity for purposes of a Motion to Compel a Response or Production of each item of information, document or thing, separately, with respect to which you claim a privilege, and state:

- a) the basis on which the privilege is claimed;
- b) the author of the document;
- c) each individual or other person to whom the document, or copy thereof, was sent or otherwise disclosed; and

d) the date of the document.

You are not requested to provide privileged information or information for which you claim privileged, but only to identify such information, document or thing.

2. Del Taco's responses to the following Interrogatories are to be promptly supplemented to include subsequently acquired information in accordance with the requirements of Rule 26(e) of the FRCP.

### **INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

Provide the physical address for all restaurants open to the public as of December 31, 1995 that were named "Naugles" and owned by Respondent.

#### **INTERROGATORY NO. 2:**

Provide the physical address for all restaurants open to the public as of December 31, 1996 that were named "Naugles" and owned by Respondent.

#### **INTERROGATORY NO. 3:**

Provide the physical address for all restaurants open to the public as of December 31, 1997 that were named "Naugles" and owned by Respondent.

#### **INTERROGATORY NO. 4:**

Provide the physical address for all restaurants open to the public as of December 31, 1998 that were named "Naugles" and owned by Respondent.

#### **INTERROGATORY NO. 5:**

Provide the physical address for all restaurants open to the public as of December 31, 1999 that were named "Naugles" and owned by Respondent.

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**INTERROGATORY NO. 6:**

Provide the physical address for all restaurants open to the public as of December 31, 2000 that were named "Naugles" and owned by Respondent.

**INTERROGATORY NO. 7:**

Provide the physical address for all restaurants open to the public as of December 31, 2001 that were named "Naugles" and were owned by Respondent.

**INTERROGATORY NO. 8:**

Provide the physical address for all restaurants open to the public as of December 31, 2002 that were named "Naugles" and owned by Respondent.

**INTERROGATORY NO. 9:**

Provide the physical address for all restaurants open to the public as of December 31, 2003 that were named "Naugles" and were owned by Respondent.

**INTERROGATORY NO. 10:**

Provide the physical address for all restaurants open to the public as of December 31, 2004 that were named "Naugles" and owned by Respondent.

**INTERROGATORY NO. 11:**

Provide the physical address for all restaurants open to the public as of December 31, 2005 that were named "Naugles" and were owned by Respondent.

**INTERROGATORY NO. 12:**

Provide the physical address for all restaurants open to the public as of December 31, 2006 that were named "Naugles" and owned by Respondent.

**INTERROGATORY NO. 13:**

Provide the physical address for all restaurants open to the public as of December 31,

2007 that were named "Naugles" and were owned by Respondent.

**INTERROGATORY NO. 14:**

Provide the physical address for all restaurants open to the public as of December 31, 2008 that were named "Naugles" and owned by Respondent.

**INTERROGATORY NO. 15:**

Provide the physical address for all restaurants open to the public as of December 31, 2009 that were named "Naugles" and were owned by Respondent.

**INTERROGATORY NO. 16:**

Provide the physical address for all restaurants open to the public as of December 31, 2010 that were named "Naugles" and owned by Respondent.

**INTERROGATORY NO. 17:**

Provide the physical address for all restaurants currently open to the public that are named "Naugles" and owned by Respondent.

Respectfully submitted,

Dated: August 19, 2011

By: 

Susan M. Natland  
Gregory B. Phillips  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614  
Telephone: (949) 760-0404  
Fax: (949)760-9502

Attorneys for Petitioner, Christian M. Ziebarth

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing **PETITIONER'S FIRST SET OF INTERROGATORIES (NOS. 1-17)** upon Respondent's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid on August 19, 2011, addressed as follows:

April L. Besl, Esq.  
DINSMORE & SHOHL LLP  
255 East Fifth Street  
Cincinnati, OH 45202

A handwritten signature in cursive script, appearing to read "Betty De La Torre", is written over a horizontal line.

Betty De La Torre

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