

ESTTA Tracking number: **ESTTA562060**

Filing date: **09/30/2013**

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 - Printed Publication.pdf(2592680 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

CHRISTIAN M. ZIEBARTH
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC
Registrant.

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

PETITIONER'S NOTICE OF RELIANCE UNDER RULE 2.122(e)
(PRINTED PUBLICATION OF GENERAL CIRCULATION)

Petitioner CHRISTIAN M. ZIEBARTH hereby notifies Registrant DEL TACO, LLC ("Del Taco") of his reliance upon the attached newspaper article entitled "*Adios to Naugles; Fast Food Chain to switch to Del Taco,*" which appeared in the May 17, 1989 issue of the *Orange County Register*, a newspaper of general circulation published in Orange County, California.

This newspaper article is relevant to this proceeding because it, among other things, constitutes a public statement of the intent not use the mark NAUGLES going forward, and it goes toward establishing Del Taco's intent not to resume use of the mark NAUGLES.

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 2.122(e) (PRINTED PUBLICATION OF GENERAL CIRCULATION)** 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



1 of 1 DOCUMENT

Copyright 1989 Orange County Register
THE ORANGE COUNTY REGISTER

May 17, 1989 Wednesday EVENING EDITION

SECTION: BUSINESS; Pg. C01

LENGTH: 758 words

HEADLINE: Adios to Naugles;
Fast-food chain to switch to Del Taco

BYLINE: Jeff Rowe, The Register

DATELINE: NEWPORT BEACH, CA

BODY:

Hola Del Taco, adios Naugles.

Restaurant magnate Anwar Soliman, who owns both chains, said Tuesday he will convert most of the 171 Naugles restaurants into Del Tacos by the end of the summer.

Soliman said the Del Taco name has a stronger Mexican food connotation than Naugles, which was named for its founder, Richard Naugle.

Soliman's company, AWR II Acquisition Corp., converted two Naugles, at 2300 N. Tustin Avenue in Santa Ana and in Long Beach, about two months ago as a test.

Conversion of the other Naugles restaurants is under way, said Soliman. He is chairman and chief executive of both AWR II and American Restaurant Group, which operates about 360 other restaurants, including the Velvet Turtle, Black Angus, Spoons and Grandy's chains.

AWR II has not quite figured out what to do with the approximately 20 Naugles that are near Del Taco outlets. For the immediate future, those will remain Naugles, Soliman said.

Menus from the two restaurants already have been combined, and thus the egg burrito, Naugles' breakfast staple, will continue at Del Taco.

Adios to Naugles; Fast-food chain to switch to Del Taco THE ORANGE COUNTY REGISTER May 17, 1989
Wednesday

Many other items from Naugles' menu will either survive or be reformulated for the Del Taco menu.

Soliman said an ad campaign focusing on the quality of Del Taco and Naugles food will continue. A strategy for announcing the change has not been decided.

AWR II purchased Naugles and the 202 Del Taco outlets in February 1988.

"The first thing we worked on was the combination of the menu, and that is done," Soliman said.

Next, the company formed its management team, naming Wayne Armstrong, president of Del Taco, as president of the combined company, which operates out of Del Taco headquarters in Costa Mesa.

Soliman declined to discuss how much it will cost to renovate the Naugles restaurants, which will include new signs and seating.

In the fast-food world of burgers, tacos and chicken nuggets, Del Taco will have one of the largest menus.

The new Del Taco menu has several varieties of tacos, burritos, fajitas, quesadillas, nachos, salads and burgers. In addition, there are complete meal platters, designed to lure customers for supper, and a self-service drink bar, popularized in recent years at Carl's Jr. restaurants.

Coming up with all these menu concoctions was a difficult task, Soliman insisted.

"It took almost eight months to make the menu adjustments," he said. "For example, with the fajitas, you keep tasting and testing. You put in a little more of this, a little more of that, then another item. By the time you are finished, you have tried nine of them. I gained 30 pounds in the test kitchen.

"But I lost it all," he added.

Soliman was president of the W.R. Grace Restaurant Group in 1977 when it bought the rights to expand Del Taco outside of California. Del Taco was founded in the early 1960s and, like Naugles, its outlets are concentrated in California.

Grace also owned Naugles -- which was founded in the early 1970s -- but sold it in 1980. Naugles then went public but foundered when it expanded too rapidly. Collins Foods International purchased a majority stake in the company in 1985 and bought the remaining shares in 1987.

Del Taco will still be a distant second in the Mexican fast-food business behind Taco Bell, which has about 2,700 restaurants and an

Adios to Naugles;Fast-food chain to switch to Del Taco THE ORANGE COUNTY REGISTER May 17, 1989
Wednesday

estimated 57 percent of the nation's \$ 2.3 billion Mexican fast-food market.

As both Naugles and Del Taco did, the reborn Del Taco will focus on its larger menu and what it describes as better-quality food.

In discussing his prime competition, Soliman did not mention Taco Bell by name but rather referred to the taco giant as "the elephant."

"We're not in the business of price discounting," Soliman said. "Have you ever had their 59-cent taco?" he asked, referring to Taco Bell's recent campaign for the low-priced taco. "It's worth 59 cents, believe me."

Taco Bell did not return phone calls.

GRAPHIC: BLACK & WHITE PHOTO; This Santa Ana Del Taco restaurant was converted from a Naugles in a test program. Now, the entire chain will change over.

LOAD-DATE: April 10, 1997