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Filing date: **01/16/2014**

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

Proceeding	92053501
Party	Defendant Del Taco, LLC
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Filer's Name	April L Besl
Filer's e-mail	april.besl@dinsmore.com
Signature	/april l besl/
Date	01/16/2014
Attachments	Notice of Reliance - Webpages.pdf(19512 bytes ) Webpages Part 1.pdf(1435247 bytes ) Webpages Part 2.pdf(1679766 bytes )

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

**CHRISTIAN M. ZIEBARTH,**

**Petitioner,**

**vs.**

**DEL TACO LLC**

**Respondent.**

**Reg. No. 1,043,729**  
**Cancellation No. 92053501**

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**RESPONDENT DEL TACO LLC'S NOTICE OF RELIANCE**

Pursuant to Rule 704.08(b) of the Trademark Trial and Appeal Board Manual of Procedure and 37 CFR § 2.122(e), Respondent Del Taco LLC ("Del Taco"), by its counsel, hereby gives notice that Del Taco offers into evidence and will rely on the following documents:

- Exhibit 16 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on February 8, 2003. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
  
- Exhibit 17 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on April 9, 2003. This evidence is relevant to Del Taco's use of the trademark NAUGLES.

- Exhibit 18 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on June 4, 2003. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 19 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on December 9, 2003. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 20 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on February 5, 2004. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 21 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on April 12, 2004. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 22 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on August 15, 2004. This evidence is relevant to Del Taco's use of the trademark NAUGLES.

- Exhibit 23 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on December 4, 2004. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 24 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on February 4, 2005. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 25 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on September 7, 2005. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 26 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on December 24, 2005. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 27 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on April 9, 2006. This evidence is relevant to Del Taco's use of the trademark NAUGLES.

- Exhibit 28 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on October 16, 2006. This evidence is relevant to Del Taco's use of the trademark NAUGLES.

Respectfully Submitted,

Dated: **January 16, 2014**

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*/ April L Besl /*

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April L. Besl  
Joshua A. Lorentz  
DINSMORE & SHOHL LLP  
255 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8527-direct  
(513) 977-8141-fax  
april.besl@dinslaw.com

*Attorneys for Respondent  
Del Taco LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was sent by first-class mail, with courtesy copy via email, on this 16<sup>th</sup> day of January, 2014, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

*/ April L Besl /*  
\_\_\_\_\_  
April L Besl

# **EXHIBIT 16**

Del Taco - Windows Internet Explorer provided by Dinsmore

https://web.archive.org/web/20030130005740/http://deltaco.com/

WayBack Machine

http://deltaco.com/content\_history.html

24 captures  
28 Aug 01 - 19 Oct 0

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FUN STUFF  
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home



# HISTORY



The first Del Taco opened in Barstow, California with a concept that caught on quickly – freshly prepared, made to order Mexican/American food, fast service and value. In more than 36 years, Del Taco has grown to become a major player in the Mexican-style quick-service category. With almost 400 restaurants across the country, Del Taco is the second largest Mexican/American chain in the United States.

### Building the Concept

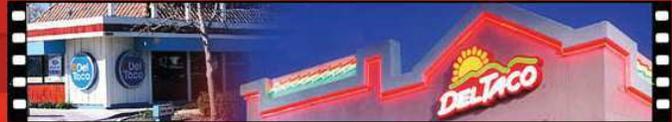
The success of the first restaurant, in 1964, quickly led to expansion. Months after the first, a second restaurant opened in Corona, California with a significant addition – a drive-thru window which was to become an enduring feature of the Del Taco chain. Two years later, Red-E-Foods Systems, Inc. was formed and Del Taco became a hot Southern California franchise. In 1972, a modernized, 28-seat restaurant opened in Newport Beach, the largest Del Taco at that time. This updated Del Taco was the epitome of the modern, efficient fast-food outlet and became the design prototype for Del Taco restaurants to come.

In 1973 Red-E-Foods Systems, Inc. officially changed its name to Del Taco, Inc. and it also marked the first year that Del Taco opened units at an average rate of one per month.

Three years after changing the name to Del Taco, Inc. founders Ed Hackbarth and David Jameson sold their stock to an independently held firm. The new management team set their sights on further expansion throughout Southern California. The 50th Del Taco restaurant opened in February, 1977 with the 100th restaurant opening just 19 months later.

Naugles, another quality Mexican fast-food chain, was established in 1970 and quickly gained in popularity. In 1971, Harold Butler bought the three Naugles restaurants and began rapid expansion, growing the chain to 225 restaurants. In December 1985, Butler sold Naugles to Collins Food International.

In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



### Strengthening the Concept

In 1988, Kevin K. Martin joined the company as Chief Executive Officer and helped to bring a new look to the Del Taco design. In the same year, the business was sold to Collins Food International.

# **EXHIBIT 17**

Del Taco - Windows Internet Explorer provided by Dinsmore

https://web.archive.org/web/20030130005740/http://deltaco.com/

Wayback Machine

http://www.deltaco.com/content\_history.html

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# HISTORY



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## Building the Concept

The success of the first restaurant, in 1964, quickly led to expansion. Months after the first, a second restaurant opened in Corona, California with a significant addition -- a drive-thru window which was to become an enduring feature of the Del Taco chain. Two years later, Red-E-Foods Systems, Inc. was formed and Del Taco became a hot Southern California franchise. In 1972, a modernized, 28-seat restaurant opened in Newport Beach, the largest Del Taco at that time. This updated Del Taco was the epitome of the modern, efficient fast-food outlet and became the design prototype for Del Taco restaurants to come.

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In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



## Strengthening the Concept

In 1988 Kevin K. McInerney joined the company as Chief Executive Officer and worked to...

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# **EXHIBIT 18**

Wayback Machine  
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- DEL TACO
- HISTORY
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### Building the Concept

The success of the first restaurant, in 1964, quickly led to expansion. Months after the first, a second restaurant opened in Corona, California with a significant addition – a drive-thru window which was to become an enduring feature of the Del Taco chain. Two years later, Red-E-Foods Systems, Inc. was formed and Del Taco became a hot Southern California franchise. In 1972, a modernized, 28-seat restaurant opened in Newport Beach, the largest Del Taco at that time. This updated Del Taco was the epitome of the modern, efficient fast-food outlet and became the design prototype for Del Taco restaurants to come.

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In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



### Strengthening the Concept

In 1989, Kevin K. Murrain joined the company as Chief Executive Officer and worked to build a new business for Del Taco. In the beginning, the focus included the fast-food restaurant...

# **EXHIBIT 19**

Del Taco - Windows Internet Explorer provided by Dinsmore  
https://web.archive.org/web/20030130005740/http://deltaco.com/

INTERNET ARCHIVE WaybackMachine  
http://deltaco.com/content\_history.html  
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### Building the Concept

The success of the first restaurant, in 1964, quickly led to expansion. Months after the first, a second restaurant opened in Corona, California with a significant addition -- a drive-thru window which was to become an enduring feature of the Del Taco chain. Two years later, Red-E-Foods Systems, Inc. was formed and Del Taco became a hot Southern California franchise. In 1972, a modernized, 28-seat restaurant opened in Newport Beach, the largest Del Taco at that time. This updated Del Taco was the epitome of the modern, efficient fast-food outlet and became the design prototype for Del Taco restaurants to come.

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In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



### Strengthening the Concept

In 1988, Kevin K. McInerney, the company's Chief Executive Officer, announced the merger of Del Taco and Naugles. The merger created the first fast-food restaurant

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# **EXHIBIT 20**

Del Taco - Windows Internet Explorer provided by Dinsmore  
https://web.archive.org/web/20030130005740/http://deltaco.com/

Wayback Machine  
http://www.deltaco.com/content\_history.html  
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# HISTORY



The first Del Taco opened in Barstow, California with a concept that caught on quickly -- freshly prepared, made to order Mexican/American food, fast service and value. In more than 36 years, Del Taco has grown to become a major player in the Mexican-style quick-service category. With over 400 restaurants across the country, Del Taco is the second largest Mexican/American chain in the United States.

### Building the Concept

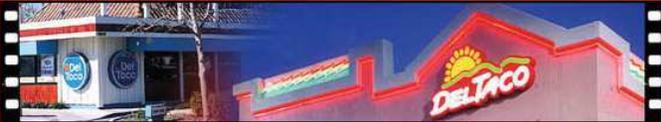
The success of the first restaurant, in 1964, quickly led to expansion. Months after the first, a second restaurant opened in Corona, California with a significant addition -- a drive-thru window which was to become an enduring feature of the Del Taco chain. Two years later, Red-E-Foods Systems, Inc. was formed and Del Taco became a hot Southern California franchise. In 1972, a modernized, 28-seat restaurant opened in Newport Beach, the largest Del Taco at that time. This updated Del Taco was the epitome of the modern, efficient fast-food outlet and became the design prototype for Del Taco restaurants to come.

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In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



### Strengthening the Concept

In 1988, Kevin K. Martin joined the company as Chief Executive Officer and began to restructure the company for Del Taco. In the previous year, the company had acquired the rights to the Naugles restaurant chain.

# **EXHIBIT 21**

Del Taco - Windows Internet Explorer provided by Dinsmore

https://web.archive.org/web/20030130005740/http://deltaco.com/

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DEL TACO HISTORY

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**Building the Concept**

The success of the first restaurant, in 1964, quickly led to expansion. Months after the first, a second restaurant opened in Corona, California with a significant addition -- a drive-thru window which was to become an enduring feature of the Del Taco chain. Two years later, Red-E-Foods Systems, Inc. was formed and Del Taco became a hot Southern California franchise. In 1972, a modernized, 28-seat restaurant opened in Newport Beach, the largest Del Taco at that time. This updated Del Taco was the epitome of the modern, efficient fast-food outlet and became the design prototype for Del Taco restaurants to come.

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In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



**Strengthening the Concept**

In 1988, Kevin K. Meier joined the company as Chief Executive Officer and began to work on strengthening the concept. In the same year, the company introduced the first drive-thru restaurant.

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# **EXHIBIT 22**

Del Taco - Windows Internet Explorer provided by Dinsmore

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INTERNET ARCHIVE WaybackMachine

http://www.deltaco.com/content\_history.html

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HISTORY



VIVA NAUGLES VIVA DEL TACO

The first Del Taco opened in Barstow, California with a concept that caught on quickly – freshly prepared, made to order Mexican/American food, fast service and value. In more than 36 years, Del Taco has grown to become a major player in the Mexican-style quick-service category. With over 400 restaurants across the country, Del Taco is the second largest Mexican/American chain in the United States.

### Building the Concept

The success of the first restaurant, in 1964, quickly led to expansion. Months after the first, a second restaurant opened in Corona, California with a significant addition -- a drive-thru window which was to become an enduring feature of the Del Taco chain. Two years later, Red-E-Foods Systems, Inc. was formed and Del Taco became a hot Southern California franchise. In 1972, a modernized, 28-seat restaurant opened in Newport Beach, the largest Del Taco at that time. This updated Del Taco was the epitome of the modern, efficient fast-food outlet and became the design prototype for Del Taco restaurants to come.

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In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



### Strengthening the Concept

In 1988, Kevin K. McInerney, the company's Chief Executive Officer, announced plans to be waterbedded for Del Taco. In the company's first year, the fast-food outlet was

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# **EXHIBIT 23**

Del Taco - Windows Internet Explorer provided by Dinsmore

https://web.archive.org/web/20030130005740/http://deltaco.com/

Internet Archive Wayback Machine

http://www.deltaco.com/content\_history.html

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## Building the Concept

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In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



## Strengthening the Concept

In 1988, Kevin K. McInerney, the company's Chief Executive Officer, announced the merger of Del Taco and Naugles. The merger created the largest Mexican fast-food restaurant chain in the United States.

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# **EXHIBIT 24**

Del Taco - Windows Internet Explorer provided by Dinsmore

https://web.archive.org/web/20030130005740/http://deltaco.com/

Wayback Machine

http://deltaco.com/content\_history.html

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## Strengthening the Concept

In 1988, Kevin K. McQuinn joined the company as Chief Executive Officer and worked to...

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# **EXHIBIT 25**

Del Taco - Windows Internet Explorer provided by Dinsmore

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Wayback Machine

http://deltaco.com/content\_history.html

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# HISTORY



The first Del Taco opened in Barstow, California with a concept that caught on quickly – freshly prepared, made to order Mexican/American food, fast service and value. In more than 36 years, Del Taco has grown to become a major player in the Mexican-style quick-service category. With over 400 restaurants across the country, Del Taco is the second largest Mexican/American chain in the United States.

### Building the Concept

The success of the first restaurant, in 1964, quickly led to expansion. Months after the first, a second restaurant opened in Corona, California with a significant addition -- a drive-thru window which was to become an enduring feature of the Del Taco chain. Two years later, Red-E-Foods Systems, Inc. was formed and Del Taco became a hot Southern California franchise. In 1972, a modernized, 28-seat restaurant opened in Newport Beach, the largest Del Taco at that time. This updated Del Taco was the epitome of the modern, efficient fast-food outlet and became the design prototype for Del Taco restaurants to come.

In 1973 Red-E-Foods Systems, Inc. officially changed its name to Del Taco, Inc. and it also marked the first year that Del Taco opened units at an average rate of one per month.

Three years after changing the name to Del Taco, Inc. founders Ed Hackbarth and David Jameson sold their stock to an independently held firm. The new management team set their sights on further expansion throughout Southern California. The 50th Del Taco restaurant opened in February, 1977 with the 100th restaurant opening just 19 months later.

Naugles, another quality Mexican fast-food chain, was established in 1970 and quickly gained in popularity. In 1971, Harold Butler bought the three Naugles restaurants and began rapid expansion, growing the chain to 225 restaurants. In December 1985, Butler sold Naugles to Collins Food International.

In March 1988, Del Taco and Naugles, two of the most successful Mexican fast-food restaurant chains, combined to become one of the strongest competitors in the then \$60 billion fast-food industry.



### Strengthening the Concept

In 1988 Kevin K. McInerney, the company's Chief Executive Officer, announced plans to be waterbedded for Del Taco. In the company's first year, that meant waterbedding

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# **EXHIBIT 26**

Del Taco - Windows Internet Explorer provided by Dinsmore

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Wayback Machine

http://www.deltaco.com/content\_history.html

24 captures  
28 Aug 01 - 18 Oct 0

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## Strengthening the Concept

In 1988, Collins Food International, the parent company of Naugles, acquired Del Taco. The combination of the two chains created a powerful competitor in the fast-food industry.

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# **EXHIBIT 27**

Del Taco - Windows Internet Explorer provided by Dinsmore

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**DEL TACO**

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**HISTORY**



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**Strengthening the Concept**

In 1988, Kevin K. McInerney, the company's Chief Executive Officer, announced the merger of Del Taco and Naugles. The merger created the largest Mexican-style fast-food restaurant chain in the United States.

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# **EXHIBIT 28**

Del Taco - Windows Internet Explorer provided by Dinsmore

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Wayback Machine

http://www.deltaco.com/content\_history.html

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**DEL TACO**

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### Strengthening the Concept

In 1988, Kevin K. McInerney, the company's Chief Executive Officer, announced the merger of Del Taco and Naugles. The merger created the first fast-food restaurant

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