

ESTTA Tracking number: **ESTTA139477**

Filing date: **05/08/2007**

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	Pizzeria Uno Corporation		
Entity	Corporation	Citizenship	Delaware
Address	1209 Orange Street Wilmington, DE 19801 UNITED STATES		

Attorney information	John L. Welch Lowrie, Lando & Anastasi, LLP 1209 Orange Street Cambridge, MA 02142 UNITED STATES jwelch@ll-a.com Phone:617-395-7000		
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Applicant Information

Application No	77001939	Publication date	05/08/2007
Opposition Filing Date	05/08/2007	Opposition Period Ends	06/07/2007
Applicant	TITTARELLI VITIVINICOLA Y OLIVICOLA SOCIEDAD ANONIMA Corrientes 222, piso 14 Buenos Aires, 01000 ARGENTINA		

Goods/Services Affected by Opposition

Class 033. First Use: 1970/12/30 First Use In Commerce: 1995/12/30 All goods and services in the class are opposed, namely: Wines
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	res judicata (claim preclusion)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1089458	Application Date	05/26/1977
Registration Date	04/11/1978	Foreign Priority Date	NONE
Word Mark	PIZZERIA UNO		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 042. First use: First Use: 1954/11/00 First Use In Commerce: 1954/11/00 RESTAURANT SERVICES		
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U.S. Registration No.	1329014	Application Date	01/18/1982
Registration Date	04/02/1985	Foreign Priority Date	NONE
Word Mark	UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1954/11/00 First Use In Commerce: 1954/11/00 Restaurant Services		

U.S. Registration No.	1586246	Application Date	07/14/1989
Registration Date	03/06/1990	Foreign Priority Date	NONE
Word Mark	UNO'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1989/04/00 First Use In Commerce: 1989/04/00 RESTAURANT SERVICES		

U.S. Registration No.	1615917	Application Date	07/25/1989
Registration Date	10/02/1990	Foreign Priority Date	NONE
Word Mark	UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1980/00/00 First Use In Commerce: 1980/00/00 PARTIALLY PRE-COOKED PIZZA SOLD IN RETAIL STORES AND IN RESTAURANTS		

U.S. Registration No.	1757093	Application Date	07/15/1992
Registration Date	03/09/1993	Foreign Priority Date	NONE
Word Mark	UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1991/06/00 First Use In Commerce: 1991/06/00 calzones		

U.S. Registration No.	1814299	Application Date	07/15/1992
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Registration Date	12/28/1993	Foreign Priority Date	NONE
Word Mark	UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1979/04/05 First Use In Commerce: 1979/04/05 salad dressings, soups, and fruit, garden, and vegetable salads Class 030. First use: First Use: 1987/09/00 First Use In Commerce: 1987/09/00 pasta salads, and entrees composed primarily of pasta		

U.S. Registration No.	1956034	Application Date	12/23/1994
Registration Date	02/13/1996	Foreign Priority Date	NONE
Word Mark	THE UNO WAY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1994/10/04 First Use In Commerce: 1994/10/04 restaurant services		

U.S. Registration No.	2561335	Application Date	07/26/2000
Registration Date	04/16/2002	Foreign Priority Date	NONE
Word Mark	UNO AMBER ALE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1995/05/00 First Use In Commerce: 1995/05/00 ale		

Related Proceedings	92045488
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Attachments	76096861#TMSN.gif (1 page)(bytes) 77001939 Notice of Opposition.pdf (4 pages)(139983 bytes)
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Signature	/johnlwelch/
Name	John L. Welch
Date	05/08/2007

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

Pizzeria Uno Corporation,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
TITTARELLI VITIVINICOLA Y OLIVICOLA)	Application S. N.
SOCIEDAD ANONIMA,)	77/001939
)	
Applicant,)	
)	

NOTICE OF OPPOSITION

Pizzeria Uno Corporation, a Delaware corporation with an office at 1209 Orange Street, Wilmington, Delaware 19801, believes that it will be damaged by registration of the mark BODEGA UNO, which mark is the subject of Application Serial No. 77/001939, filed by Tittarelli Vitivinicola y Olivicola Sociedad Anonima, of Buenos Aires, Argentina, and which mark was published for opposition in the *Official Gazette* of May 8, 2007.

The grounds for the opposition are as follows:

1. Applicant Tittarelli Vitivinicola y Olivicola Sociedad Anonima seeks to register the mark BODEGA UNO for "wines" (in international class 33).
2. In 1943, Opposer's predecessor in interest adopted the marks and names PIZZERIA UNO and UNO, and Opposer and its predecessors have since used said marks and names in interstate commerce, continuously and extensively in connection with restaurant services and food products, including the serving of alcoholic beverages such as wine. There are presently in operation more than one-hundred and seventy-five (175) UNO restaurants throughout the United States.

Opposer has also extensively and continuously used said marks and names for many years in connection with the sale of food products in retail stores. Through extensive advertising, promotion, and use of the marks and names PIZZERIA UNO and UNO, Opposer has built a strong national reputation for high quality restaurant services and food products sold thereunder. The marks and names UNO and PIZZERIA UNO have, long prior to Applicant's filing date and its alleged first use date, come to be famous, and uniquely and distinctively identify Opposer and its products and services.

4. Opposer is the owner of, *inter alia*, the following United States Trademark and Service Mark Registrations:

Reg. No.	Mark	Issued	Goods and Services
1,089,458	PIZZERIA UNO	4/11/78	restaurant services
1,329,014	UNO	4/2/85	restaurant services
1,586,246	UNO'S	3/6/90	restaurant services
1,615,917	UNO	10/2/90	partially pre-cooked pizza sold in retail stores and in restaurants
1,757,093	UNO	3/9/93	calzones
1,814,299	UNO	12/28/93	salad dressings, soups, and fruit, garden and vegetable salads; pasta salads, and entrees composed primarily of pasta
1,956,034	THE UNO WAY	2/13/96	restaurant services
2,561,335	UNO AMBER ALE	4/16/02	ale

Opposer's right to exclusive use of the marks PIZZERIA UNO, UNO, UNO's, and THE UNO WAY for the goods and services listed above has become incontestable under 15 U.S.C. Sec. 1065.

5. The goods set forth in Application Serial No. 77001939 are closely related to goods and services in connection with which Opposer has used and is using its UNO and PIZZERIA UNO marks. On information and belief, Applicant's goods will be offered to the same general class of customers who purchase the goods and services in connection with which Opposer has used and is using its various UNO and PIZZERIA UNO marks.

6. The mark of Application Serial No. 77001939 incorporates Opposer's registered mark UNO and is substantially and confusingly similar to Opposer's marks listed above.

7. Customers and potential customers are likely to believe that Applicant's goods offered under the mark BODEGA UNO emanate from, or are licensed or approved by, Opposer, when that is not the case. Such confusion would be a source of damage to Opposer.

8. In addition, Opposer is entitled to judgment on the ground of *res judicata* (claim preclusion) in light of the entry of judgment in Opposer's favor in Cancellation No. 92045488, which proceeding involved the same parties, the same mark, the same goods, and the same claim of likelihood of confusion. Opposer intends to move for summary judgment in this proceeding in light of that prior judgment.

9. If Applicant is granted the registration herein opposed, it would thereby obtain a *prima facie* exclusive right to use of the BODEGA UNO mark, which would be a further source of damage to Opposer.

WHEREFORE, Opposer believes that it will be damaged by Application Serial No. 77001939 and prays that this Opposition be sustained and that Application Serial No. 77001939 be rejected.

PIZZERIA UNO CORPORATION

A handwritten signature in black ink, reading "John L. Welch", is written over a horizontal line.

John L. Welch, Esq.
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