

ESTTA Tracking number: **ESTTA141314**

Filing date: **05/18/2007**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Hormel Foods Corporation
Granted to Date of previous extension	05/20/2007
Address	1 Hormel Place Austin, MN 55912 UNITED STATES

Name	Hormel Foods, LLC
Granted to Date of previous extension	05/20/2007
Address	1 Hormel Place Austin, MN 55912 UNITED STATES

Name	Hormel Foods Sales, LLC
Granted to Date of previous extension	05/20/2007
Address	1 Hormel Place Austin, MN 55912 UNITED STATES

Attorney information	Allen Hinderaker and William Schultz Merchant & Gould P.C. 80 South Eighth St. Suite 3200 Minneapolis, MN 55402 UNITED STATES hormel@merchantgould.com Phone:612-332-5300
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Applicant Information

Application No	78784351	Publication date	11/21/2006
Opposition Filing Date	05/18/2007	Opposition Period Ends	05/20/2007
Applicant	Pechanga Development Corporation 45000 Pechanga Parkway Temecula, CA 92592 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 2004/11/10 First Use In Commerce: 2004/11/10
All goods and services in the class are opposed, namely: Restaurant services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1724531	Application Date	03/05/1991
Registration Date	10/13/1992	Foreign Priority Date	NONE
Word Mark	DINTY MOORE AMERICAN CLASSICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1991/08/22 First Use In Commerce: 1991/08/22 prepared entrees consisting primarily of meat and/or poultry and/or vegetables Class 030. First use: First Use: 1991/08/22 First Use In Commerce: 1991/08/22 prepared entrees consisting primarily of pasta		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	AMERICAN CLASSICS		
Goods/Services	"chili, with or without beans; beef stew; corned beef hash; scalloped potatoes with ham" in International Class 29 and for "sloppy Joe sauce; chicken ravioli; shelf-stable prepared and/or packaged entrees consisting primarily of pasta noodles with beef and/or chicken" in International Class 30.		

Related Proceedings	None
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Attachments	2007 05 18 Ntc of Opp.pdf (6 pages)(261401 bytes)
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Signature	/William Schultz/
Name	William Schultz
Date	05/18/2007

M&G 3370

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

Hormel Foods Corporation,)	
Hormel Foods LLC, and)	
Hormel Foods Sales LLC,)	
)	Mark: AMERICAN CLASSICS
Opposers,)	
)	Serial No.: 78-784,351
v.)	
)	Filing Date: January 3, 2006
Pechanga Development Corporation,)	
)	Publication Date: November 21, 2006
Applicant.)	

NOTICE OF OPPOSITION

In the matter of Application Serial No. 78-784,351 filed January 3, 2006, by Pechanga Development Corporation (“Applicant”), a tribally chartered corporation of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California, with a place of business at 45000 Pechanga Parkway, Temecula, CA 92592, to register AMERICAN CLASSICS as a trademark for use in connection “restaurant services” in International Class 43, which was published in the Official Gazette on November 21, 2006. Hormel Foods Corporation, a Delaware corporation, Hormel Foods, LLC, a Minnesota limited liability company, and Hormel Foods Sales LLC, a Delaware limited liability company (“Opposers”), having their principal place of business at 1 Hormel Place, Austin, Minnesota 55912-3680, believe they will be damaged by registration of the AMERICAN CLASSICS mark in International Classes 43 and oppose the same.

The grounds for this opposition are as follows:

1. Opposer Hormel Foods Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 1 Hormel Place, Austin, Minnesota 55912-3680. Hormel Foods Corporation is a multinational manufacturer and marketer of consumer-branded meat and food products, many of which are among the best known and trusted in the food industry. Hormel Foods produces and sells the products under the AMERICAN CLASSICS and DINTY MOORE AMERICAN CLASSICS trademarks (Opposers' Marks).

2. Hormel Foods Sales, LLC is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 1 Hormel Place, Austin, Minnesota 55912-3680. Hormel Foods Sales, LLC markets and sells goods under Opposers' Marks that are manufactured by Hormel Foods Corporation.

3. Hormel Foods, LLC is a limited liability company organized and existing under the laws of the State of Minnesota, with its principal place of business at 1 Hormel Place, Austin, Minnesota 55912-3680. Hormel Foods, LLC owns and licenses trademarks related to goods manufactured by Hormel Foods Corporation and marketed and sold by Hormel Foods Sales, LLC, including products under Opposers' Marks.

4. Opposer Hormel Foods, LLC has common law rights in the trademark AMERICAN CLASSICS on a wide variety of food products dating back to at least as early as August of 1991.

5. Opposer Hormel Foods, LLC is the owner of U.S. Trademark Application Ser. No. 78-933,164 for the mark AMERICAN CLASSICS for "chili, with or without beans; beef stew; corned beef hash; scalloped potatoes with ham" in International Class 29 and for

“sloppy Joe sauce; chicken ravioli; shelf-stable prepared and/or packaged entrees consisting primarily of pasta or noodles with beef and/or chicken” in International Class 30.

6. Opposer Hormel Foods, LLC is the owner of U.S. Trademark Registration No. 1,724,531, which was registered on October 13, 1992, for the mark DINTY MOORE AMERICAN CLASSICS for “prepared entrees consisting primarily of meat and/or poultry and/or vegetables” in International Class 29 and for “prepared entrees consisting primarily of pasta” in International Class 30.

7. Hormel Foods Corporation and Hormel Foods Sales, LLC have sold a wide variety of food products under Opposers’ Marks since at least as early as August of 1991, and have developed trademark rights in and to Opposers’ Marks that inure to Hormel Foods, LLC.

8. Opposers’ Marks have been in use in interstate commerce, have been advertised and promoted by Opposers or their affiliates, and have developed and represent valuable goodwill to the benefit of Opposers. Opposers’ Marks have trademark significance to purchasers and potential purchasers.

9. There is no issue of priority because Opposers have used Opposers’ Marks since at least as early as August of 1991, prior to November 10, 2004, Applicant’s asserted first use date.

10. Applicant is a tribally chartered corporation of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California, with a place of business at 45000 Pechanga Parkway, Temecula, CA 92592.

11. Applicant is seeking to register the mark AMERICAN CLASSICS in connection with “restaurant services” in International Class 43.

12. Applicant's mark is confusingly similar to Opposers' Marks. Opposers' Marks and Applicant's mark both consist of the phrase AMERICAN CLASSICS and the marks as a whole convey a similar commercial impression.

13. Opposers' goods sold in interstate commerce under Opposers' Marks are confusingly similar to Applicant's restaurant services in that both Opposers and Applicant use the marks in connection with food products. Consumers are likely to view Applicant's services as Opposers' services or a natural extension of Opposers' products.

14. Due to the similarity of Opposers' Marks with Applicant's AMERICAN CLASSICS application and the closely related nature of the goods and services of the respective parties, customers and potential customers are likely to believe that Applicant's services under Applicant's mark originate from Opposers, resulting in a likelihood of confusion in the marketplace and damage to Opposers.

15. Because of the related nature of the goods and services and the similarity of the marks, use and registration of the mark AMERICAN CLASSICS by Applicant is likely to cause confusion, mistake, or deception that Applicant's services are those of Opposers or otherwise endorsed, sponsored, or approved by Opposers causing further damage to Opposers.

16. Registration of the mark shown in Application Serial No. 78-784,351 will result in damage to Opposers under Section 2(d) of the U.S. Trademark Act, 15 U.S.C. § 1052.

17. Opposers will be damaged if Applicant obtains a registration of the AMERICAN CLASSICS mark because Applicant will obtain statutory rights in the mark in

violation and in derogation of the established prior rights of Opposers in their AMERICAN CLASSICS trademark.

WHEREFORE, Opposers ask that its opposition to this application be sustained and that the registration of the term AMERICAN CLASSICS be refused. Please direct all correspondence to the attention of Allen Hinderaker:

Merchant & Gould P.C.
PO Box 2910
Minneapolis, MN 55402
612-332-5300

The Petitioner herein appoints Allen W. Hinderaker; William D. Schultz; Heather J. Kliebenstein; Scott W. Johnston, Reg. No. 39,721; Brian H. Batzli, Reg. No. 32,960; John A. Clifford, Reg. No. 30,247; Gregory C. Golla; Chris Schulte; Kristine Boylan; Daniel W. McDonald, Reg. No. 32,044; Sam Lockner, Danielle Mattessich, and all other attorneys of Merchant & Gould, P.C., and Kevin Jones of Hormel Foods Corporation, their attorneys to transact all business in the U.S. Patent and Trademark Office related to this matter with full power of substitution.

Please charge the required fee of \$900.00 to Deposit Account No. 13-2725 of
Opposers' counsel noted above.

Respectfully submitted,

HORMEL FOODS CORPORATION,
HORMEL FOODS, LLC., and
HORMEL FOODS SALES, LLC

By their attorneys,

Date: May 18, 2007



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Attorneys for Opposers