

ESTTA Tracking number: **ESTTA257983**

Filing date: **12/30/2008**

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	Honest Tea, Inc.
Granted to Date of previous extension	01/04/2009
Address	5019 Wilson Lane Bethesda, MA 20814 UNITED STATES

Attorney information	Ira jay Levy Goodwin Procter LLP The New York Times Building 620 8th Avenue New York, NY 10018 UNITED STATES ilevy@goodwinprocter.com, tmadmin@goodwinprocter.com, ny-tmadmin@goodwinprocter.com, jnici@goodwinprocter.com Phone:212-459-7456
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### Applicant Information

Application No	77390102	Publication date	07/08/2008
Opposition Filing Date	12/30/2008	Opposition Period Ends	01/04/2009
Applicant	Nuestra Senora De La Soledad S. Coop. De C-LM Avda. Constitucion, 58 Fuente Pedro Naharro, 16411 SPAIN		

### Goods/Services Affected by Opposition

Class 033. First Use: 2007/05/23 First Use In Commerce: 2007/05/23  
All goods and services in the class are opposed, namely: Wines

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2271571	Application Date	11/10/1997
Registration Date	08/24/1999	Foreign Priority Date	NONE
Word Mark	HONEST TEA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1998/05/00 First Use In Commerce: 1998/05/00 Tea-based beverages

U.S. Registration No.	3436920	Application Date	11/30/2006
Registration Date	05/27/2008	Foreign Priority Date	NONE

Word Mark	HONEST KIDS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 032. First use: First Use: 2007/04/30 First Use In Commerce: 2007/04/30 NON-ALCOHOLIC, ORGANIC BEVERAGES CONTAINING FRUIT JUICES
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U.S. Registration No.	3140335	Application Date	01/06/2005
Registration Date	09/05/2006	Foreign Priority Date	NONE

Word Mark	HONEST ADE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 032. First use: First Use: 2005/05/21 First Use In Commerce: 2005/07/01 non-alcoholic, organic beverages containing fruit juices
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**Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ira Jay Levy/
Name	Ira jay Levy
Date	12/30/2008

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

Honest Tea, Inc.  
*Opposer,*

v.

Nuestra Senora De La Soledad S. Coop. De  
C-LM  
*Applicant.*

Opposition No. \_\_\_\_\_

Serial Number: 77390102

Mark: HONEST

**NOTICE OF OPPOSITION**

Honest Tea, Inc., a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 4827 Bethesda Avenue, Bethesda MD 20814, believes it will be damaged by the registration of the mark shown in application Serial No. 77390102 – HONEST – for wines in International Class 33, and having previously obtained an extension of time to oppose until January 4, 2009, hereby opposes the same.

The grounds for this opposition are as follows:

1. Honest Tea, Inc. (“Opposer”) is the owner of the federally registered trademark HONEST TEA, Reg. No. 2,271,571, used in connection with the sale and marketing of tea-based beverages in International Class 30. Opposer adopted the HONEST TEA mark in about May of 1998 and has used said mark in commerce continuously ever since. By virtue of compliance with

the relevant statutory requirements, the registration for the HONEST TEA mark has become incontestable.

2. Opposer is also the owner of the federally registered trademarks HONEST KIDS (Reg. No. 3,436,920) and HONEST ADE (Reg. No. 3,140,335), both for non-alcoholic, organic beverages containing fruit juice in International Class 32. Opposer has used the HONEST ADE mark in connection with beverages since at least July of 2005 and the HONEST KIDS mark in connection with beverages since at least April of 2007.

3. Through the continued and widespread use by Opposer of the marks HONEST TEA, HONEST ADE and HONEST KIDS (collectively the “HONEST Marks”), in connection with a variety of beverage products, including those described above, the marks have acquired extensive goodwill, have earned a high degree of distinctiveness, and are recognized by a broad segment of the consuming public as identifying high quality beverage productions that originate with or have been authorized by Opposer.

4. The HONEST marks are famous marks, and are valuable assets of Opposer.

5. Nuestra Senora De La Soledad S. Coop. De C-LM (“Applicant”) is the record owner of a trademark application, Application Serial No. 77390102, seeking registration of the mark HONEST for wines in International Class 33 (“Applicant’s Mark”).

6. Opposer obtained an extension of time to oppose registration of Applicant’s Mark until January 4, 2009.

7. Applicant proposes to register Applicant’s Mark in connection with wines, goods that are related to the goods in association with which Opposer uses its HONEST and HONEST TEA Marks.

8. Opposer has used the Honest Marks in commerce since long prior to the filing of the Application, and Opposer has actively expanded its use of said marks.

9. Applicant's Mark is confusingly similar to Opposer's HONEST Marks in appearance, sound and commercial impressions.

10. Applicant's wines are packaged beverage products that are related to the juice, tea and other beverage goods sold and provided in connection with Opposer's Honest Marks and/or represent a natural zone of expansion for Opposer.

12. Upon information and belief, Applicant's wines would travel and/or be promoted through the same channels of trade for sale to, and use by, the same or similar class of consumers.

13. Applicant's proposed registration of Applicant's Mark in connection with Applicant's Goods, is likely to cause dilution to the distinctiveness and goodwill attached to Opposer's HONEST Marks, and therefore should be denied registration, pursuant to 15 U.S.C. § 1125(c).

14. Applicant's Mark is confusingly similar in sight, sound and commercial impression to Opposer's HONEST marks, such that the proposed use of Applicant's Mark in connection with wines is likely to cause confusion, mistake or deception as to the source or origin of Applicant's wines in that the public is likely to believe that Applicant's goods are (i) the same goods as Opposer's or (ii) provided by, sponsored by, approved or licensed by, or otherwise affiliated with or connected to Opposer. Therefore, Opposer would be irreparably harmed and damaged by the allowance of Applicant's Mark, and thus has standing to commence and maintain this proceeding.

WHEREFORE, Opposer prays that the registration sought by Applicant be refused and that this Opposition be sustained.

Dated: December 31, 2008

Respectfully submitted,

Honest Tea, Inc.

By Their Attorneys,

By: \_\_\_\_\_  
Ira Jay Levy

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New York, New York 10018  
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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION has been served by first class airmail on December 31, 2008 upon:

Nuestra Senora De La Soledad S. Coop. De C-LM  
Avda. Constitucion, 58 Fuente Pedro  
Naharro SPAIN 16411

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