

ESTTA Tracking number: **ESTTA354382**

Filing date: **06/23/2010**

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	Comercializadora de Lacteos y Derivados
Granted to Date of previous extension	09/01/2010
Address	Lazaro Cardenas y Valle del Guadiana Parque Industrial Lagunero Gomez Palacio, Durango, 35077 MEXICO
Party who filed Extension of time to oppose	Comercializadora de Lácteos y Derivados, S.A. de C.V.
Relationship to party who filed Extension of time to oppose	ESTTA does not accept non-US ASCII characters. In addition, opposer's full name is too long and cannot be entered.

Attorney information	John M. Murphy Arochi, Marroquin & Lindner, S.C. 5802 Bob Bullock (Loop 20) Building C1-56YI Laredo, TX 78041 UNITED STATES jmurphy@aml.com.mx Phone:011.52.55.5095.2031
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**Applicant Information**

Application No	77891714	Publication date	05/04/2010
Opposition Filing Date	06/23/2010	Opposition Period Ends	09/01/2010
International Registration No.	NONE	International Registration Date	NONE
Applicant	Bagley Argentina S.A. Marcelino Bernardi 18 Arroyito, Departamento de San Justo Provincia de Cordoba, ARGENTINA		


**Goods/Services Affected by Opposition**

Class 030. All goods and services in the class are opposed, namely: Sweet milk cookies
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**Grounds for Opposition**

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

U.S. Application No.	77502817	Application Date	06/19/2008
Registration Date	NONE	Foreign Priority Date	06/04/2008
Word Mark	NUTRI LECHE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: Milk-based beverages containing milk concentrates, vegetable oil and added nutrients		

Attachments	77502817#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition.pdf ( 3 pages )(40600 bytes )
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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 Overnight Courier on this date.

Signature	/John M. Murphy/
Name	John M. Murphy
Date	06/23/2010

UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No. 77891714: NUTRILECHE  
Published in the Official Gazette of May 4, 2010 at TM 835

COMERCIALIZADORA DE LÁCTEOS Y )  
DERIVADOS, S.A. DE C.V., )  
 )  
Opposer, )  
 )  
v. )  
 )  
BAGLEY ARGENTINA S.A., )  
 )  
Applicant. )

**NOTICE OF OPPOSITION**

Opposer, Comercializadora de Lácteos y Derivados, S.A. de C.V., a Mexican corporation located and doing business at Lázaro Cárdenas y Valle del Guadiana, Parque Industrial Lagunero, Gómez Palacio, Durango, Mexico, believes it will be damaged by registration of the mark shown in Application Serial No. 77891714. The grounds for opposition are stated below:

1. On June 19, 2008, opposer filed Application Serial No. 77502817 to register the mark NUTRI LECHE for “milk-based beverages containing milk concentrates, vegetable oil and added nutrients.” The application claimed priority under Section 44(d) of the Trademark Act, based on a Mexican application filed on June 4, 2008.

2. On December 11, 2009, applicant filed Application Serial No. 77891714 to register the mark NUTRI LECHE for “sweet milk cookies.” Applicant did not claim priority under Section 44(d) of the Trademark Act. Applicant did not claim use of its mark in commerce, or use of its mark analogous to trademark use, prior to the filing date of its application. On information and belief, applicant has no basis on which to claim priority over opposer in this proceeding.

3. The parties’ marks, NUTRI LECHE and NUTRILECHE, are virtually identical. The parties seek to register their marks for complementary or related goods.

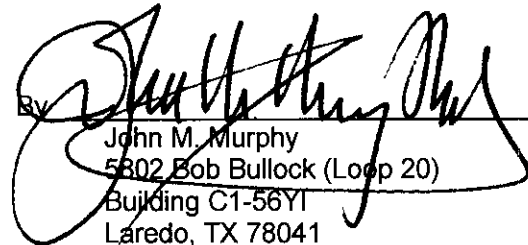
The parties' use of their respective marks for the goods identified in their applications is likely to cause confusion, mistake or deception.

4. Opposer has not consented to applicant's intended use of or application to register the mark NUTRILECHE.

5. Applicant's registration of the mark NUTRILECHE for the goods identified in Application Serial No. 77891714 would be damaging to opposer.

Opposer therefore requests that this opposition be sustained and that Application Serial No. 77891714 be refused.

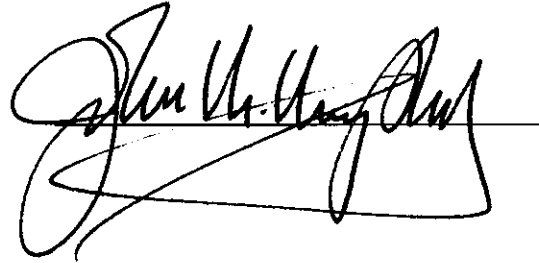
**AROCHI, MARROQUÍN & LINDNER, S.C.**

BY   
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Attorney for Opposer

**CERTIFICATE OF SERVICE**

I, John M. Murphy, certify that a copy of this NOTICE OF OPPOSITION was served by courier on Perla M. Kuhn, Hughes Hubbard & Reed LLP, 1 Battery Park Plaza, New York, NY 10004, on June 23, 2010.

A handwritten signature in black ink, appearing to read "John M. Murphy", is written over a horizontal line. The signature is stylized and cursive.