

ESTTA Tracking number: **ESTTA789093**

Filing date: **12/14/2016**

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

Proceeding	91224476
Party	Plaintiff McKee Foods Kingman, Inc.
Correspondence Address	SANDRA EDELMAN DORSEY & WHITNEY LLP 51 WEST 52ND STREET NEW YORK, NY 10019-6119 UNITED STATES ny.trademark@dorsey.com, edelman.sandra@dorsey.com, sanderji.fara@dorsey.com, osowski.kaydi@dorsey.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Sandra Edelman
Filer's e-mail	ny.trademark@dorsey.com, edelman.sandra@dorsey.com, sanderji.fara@dorsey.com, osowski.kaydi@dorsey.com
Signature	/se/
Date	12/14/2016
Attachments	McKee Notice of Reliance.pdf(74838 bytes ) Exhibit 1.pdf(133110 bytes ) Exhibit 2.pdf(132734 bytes ) Exhibit 3.pdf(64173 bytes ) Exhibit 4.pdf(127743 bytes ) Exhibit 5 - Filed Under Seal.pdf(101584 bytes )

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

MCKEE FOODS KINGMAN, INC.,	-----X	
	:	
Opposer,	:	Opposition No. 91224476
	:	
v.	:	
	:	
COASTAL SUNBELT PRODUCE, LLC,	:	
	:	
Applicant.	:	
	-----X	

**OPPOSER'S NOTICE OF RELIANCE**

Opposer, McKee Foods Kingman, Inc., hereby provides notice that it intends to rely upon, and hereby submits, the following evidence in support of its case-in-chief:

1. Printout from Trademark Electronic Search System of Registration No. 1,228,969 of McKee's trademark SUNBELT in the name of McKee Foods Kingman, Inc., and a printout of the corresponding record from USPTO Assignments on the Web confirming title in McKee Foods Kingman, Inc., copies of which are attached hereto as Exhibit 1.

2. Printout from Trademark Electronic Search System of Registration No. 1,875,441 of McKee's trademark SUNBELT in the name of McKee Foods Kingman, Inc., and a printout of the corresponding record from USPTO Assignments on the Web confirming title in McKee Foods Kingman, Inc., copies of which are attached hereto as Exhibit 2.

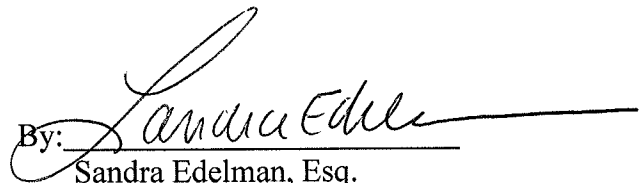
3. Printout from Trademark Electronic Search System of Registration No. 4,831,911 of McKee's trademark SUNBELT BAKERY in the name of McKee Foods Kingman, Inc., and a printout of the corresponding record from USPTO Assignments on the Web confirming title in McKee Foods Kingman, Inc., copies of which are attached hereto as Exhibit 3.

4. Printout from Trademark Electronic Search System of Registration No. 4,836,630 of McKee's trademark SUNBELT BAKERY & Design in the name of McKee Foods Kingman, Inc., and a printout of the corresponding record from USPTO Assignments on the Web confirming title in McKee Foods Kingman, Inc., copies of which are attached hereto as Exhibit 4

5. Applicant's responses to the Opposer's Interrogatories 8 and 9. Copies of the relevant pages of "Coastal Sunbelt Produce, LLC's Responses to McKee's First Set of Interrogatories" are attached hereto as Exhibit 5.

Dated: New York, New York  
December 14, 2016

DORSEY & WHITNEY LLP

By: 

Sandra Edelman, Esq.  
Fara S. Sunderji, Esq.  
51 West 52<sup>nd</sup> Street  
New York, New York 10019  
(212) 415-9200

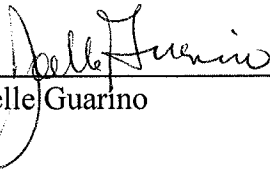
Attorneys for Opposer  
McKee Foods Kingman, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing OPPOSER'S NOTICE OF RELIANCE is being served upon Applicant's counsel of record by mailing a true copy thereof by first-class mail, postage prepaid, addressed to:

DAVID J. ERVIN  
CROWELL & MORING LLP  
PO BOX 14300  
WASHINGTON, DISTRICT OF COLUMBIA 20044-4300

on December 14, 2016

  
\_\_\_\_\_  
Joelle Guarino

# EXHIBIT 1



**Trademarks > Trademark Electronic Search System (TESS)**

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# Typed Drawing

**Word Mark** SUNBELT  
**Goods and Services** IC 030. US 046. G & S: Cookies and Cakes. FIRST USE: 19810307. FIRST USE IN COMMERCE: 19810418  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 73311548  
**Filing Date** May 22, 1981  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** September 7, 1982  
**Registration Number** 1228969  
**Registration Date** March 1, 1983  
**Owner** (REGISTRANT) McKee Baking Company CORPORATION TENNESSEE Box 750 Collegedale TENNESSEE 37315  
 (LAST LISTED OWNER) MCKEE FOODS KINGMAN, INC. CORPORATION BY CHANGE OF NAME, BY ASSIGNMENT ARIZONA 2675 WEST OATMAN ROAD KINGMAN ARIZONA 86413  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** Sandra Edelman  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20120929.  
**Renewal** 2ND RENEWAL 20120929  
**Live/Dead Indicator** LIVE

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[Assignments on the Web](#) > [Trademark Query](#)**Trademark Assignment Abstract of Title****Total Assignments: 2**Serial #: [73311548](#)

Filing Dt: 05/22/1981

Reg #: [1228969](#)

Reg. Dt: 03/01/1983

Registrant: McKee Baking Company

Mark: SUNBELT

**Assignment: 1**Reel/ Frame: [0858/0710](#)

Recorded: 07/11/1991

Pages: 9

Conveyance: CHANGE OF NAME 19880905

Assignor: [MCKEE BAKING COMPANY](#)

Exec Dt: 07/08/1991

Entity Type: COMPANY

Citizenship: NONE

Assignee: [MCKEE FOODS CORPORATION](#)

Entity Type: CORPORATION

Citizenship: NONE

Correspondent: BROWNSTEIN ZEIDMAN AND LORE

STE. 900

1401 NEW YORK AVE., NW

WASHINGTON, DC 20005-2102

**Assignment: 2**Reel/ Frame: [2529/0504](#)

Recorded: 06/27/2002

Pages: 11

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [MCKEE FOODS CORPORATION](#)

Exec Dt: 06/19/2002

Entity Type: CORPORATION

Citizenship: TENNESSEE

Assignee: [MCKEE FOODS KINGMAN, INC.](#)

Entity Type: CORPORATION

Citizenship: ARIZONA

Correspondent: CHAMBLISS, BAHNER &amp; STOPHEL

DAVID J. HILL

1000 TALLAN BLDG.

TWO UNION SQUARE

CHATTANOOGA, TN 37402

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# EXHIBIT 2

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# Typed Drawing

<b>Word Mark</b>	SUNBELT
<b>Goods and Services</b>	IC 030. US 046. G & S: breakfast cereals, granola-based snack bars [ and candy ]. FIRST USE: 19820207. FIRST USE IN COMMERCE: 19820307
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	74470783
<b>Filing Date</b>	December 17, 1993
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	November 1, 1994
<b>Registration Number</b>	<b>1875441</b>
<b>Registration Date</b>	January 24, 1995
<b>Owner</b>	(REGISTRANT) McKEE FOODS CORPORATION CORPORATION TENNESSEE Post Office Box 750 Collegedale TENNESSEE 37315  (LAST LISTED OWNER) McKee Foods Kingman, Inc. CORPORATION ARIZONA 2675 West Oatman Road Kingman ARIZONA 86413
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Sandra Edelman
<b>Prior Registrations</b>	1228969
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20150204.
<b>Renewal</b>	2ND RENEWAL 20150204
<b>Live/Dead Indicator</b>	LIVE

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[Assignments on the Web](#) > [Trademark Query](#)**Trademark Assignment Abstract of Title****Total Assignments: 1**Serial #: [74470783](#)

Filing Dt: 12/17/1993

Reg #: [1875441](#)

Reg. Dt: 01/24/1995

Registrant: MCKEE FOODS CORPORATION

Mark: SUNBELT

**Assignment: 1**Reel/ Frame: [2529/0504](#)

Recorded: 06/27/2002

Pages: 11

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [MCKEE FOODS CORPORATION](#)

Exec Dt: 06/19/2002

Entity Type: CORPORATION

Citizenship: TENNESSEE

Assignee: [MCKEE FOODS KINGMAN, INC.](#)

Entity Type: CORPORATION

Citizenship: ARIZONA

2675 WEST OATMAN ROAD

KINGMAN, ARIZONA 86413

Correspondent: CHAMBLISS, BAHNER &amp; STOPHEL

DAVID J. HILL

1000 TALLAN BLDG.

TWO UNION SQUARE

CHATTANOOGA, TN 37402

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# EXHIBIT 3

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# SUNBELT BAKERY

**Word Mark** SUNBELT BAKERY

**Goods and Services** IC 030. US 046. G & S: Granola; breakfast cereal; granola-based snack bars; grain-based snack bars; grain-based snack bars also containing fruit; cereal-based snack bars; cookie bars. FIRST USE: 20120715. FIRST USE IN COMMERCE: 20120715

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 86572672

**Filing Date** March 23, 2015

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** July 28, 2015

**Registration Number** 4831911

**Registration Date** October 13, 2015

**Owner** (REGISTRANT) McKee Foods Kingman, Inc. CORPORATION ARIZONA 2675 West Oatman Road Kingman ARIZONA 86413

**Attorney of Record** Sandra Edelman

**Prior Registrations** 1228969;1875441

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BAKERY" APART FROM THE MARK AS SHOWN

**Type of Mark** TRADEMARK

**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**For Serial Number: 86572672**

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# EXHIBIT 4



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**Word Mark** SUNBELT BAKERY

**Goods and Services** IC 030. US 046. G & S: Granola; breakfast cereal; granola-based snack bars; grain-based snack bars; grain-based snack bars also containing fruit; cereal-based snack bars; cookie bars. FIRST USE: 20120715. FIRST USE IN COMMERCE: 20120715

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches  
05.07.02 - Bundles, grain; Haystacks; Stalks (grain)  
26.01.02 - Circles, plain single line; Plain single line circles

**Serial Number** 86572683

**Filing Date** March 23, 2015

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** August 4, 2015

**Registration Number** 4836630

**Registration Date** October 20, 2015

**Owner** (REGISTRANT) McKee Foods Kingman, Inc. CORPORATION ARIZONA 2675 West Oatman Road Kingman ARIZONA 86413

**Attorney of Record** Sandra Edelman

**Prior Registrations** 1228969;1875441

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BAKERY" APART FROM THE MARK AS SHOWN

**Description of Mark** The color(s) black, orange, light golden brown, green, light blue, medium blue, and white is/are claimed as a feature of the mark. The mark consists of the stylized words "SUNBELT BAKERY" and design. The wording "SUNBELT BAKERY" is in black and shown below an orange ring containing an image of light golden brown stalks of wheat growing in the green grass with a light and medium blue sky with white clouds in the background and green leaves are on the outside border of the ring.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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**For Serial Number: 86572683**

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