

ESTTA Tracking number: **ESTTA762227**

Filing date: **08/03/2016**

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 Wolf Greenfield & Sacks PC 600 Atlantic Avenue Boston, MA 02210 UNITED STATES jlwtrademarks@wolfgreenfield.com Phone:617-646-8000		
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Applicant Information

Application No	86900086	Publication date	07/05/2016
Opposition Filing Date	08/03/2016	Opposition Period Ends	08/04/2016
Applicant	Treviño, Leobardo P. O. Box 381 Hidalgo, TX 78557 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Alcoholic beverages, except beer; Tequila

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.	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		
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.	2561335	Application Date	07/26/2000
Registration Date	04/16/2002	Foreign Priority	NONE

		Date	
Word Mark	UNO AMBER ALE		
Design Mark	<p style="text-align: center;">UNO AMBER ALE</p>		
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1995/05/00 First Use In Commerce: 1995/05/00 ale		

U.S. Registration No.	2900824	Application Date	06/11/2003
Registration Date	11/02/2004	Foreign Priority Date	NONE
Word Mark	UNO CHICAGO GRILL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2002/11/01 First Use In Commerce: 2002/11/01 restaurant services		


U.S. Registration No.	3426686	Application Date	10/03/2007
Registration Date	05/13/2008	Foreign Priority Date	NONE
Word Mark	NUMERO UNO		
Design Mark	<p style="text-align: center;">NUMERO UNO</p>		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1979/04/30 First Use In Commerce: 1980/10/31 pizza for consumption on or off the premises		

U.S. Registration No.	3757594	Application Date	09/02/2009
Registration Date	03/09/2010	Foreign Priority	NONE

		Date	
Word Mark	NUMERO UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2009/02/28 First Use In Commerce: 2009/02/28 partially pre-cooked pizza sold in retail stores		

U.S. Registration No.	3925806	Application Date	03/15/2007
Registration Date	03/01/2011	Foreign Priority Date	NONE
Word Mark	UNO CHICAGO GRILL EST. 1943		
Design Mark			
Description of Mark	The mark consists of the word "UNO" in red, outlined in yellow, then white, black and gray, and is located above the words "CHICAGO GRILL", which are in white on a black background. There is a horizontal white line above and below the words "CHICAGO GRILL" and a series of short horizontal bars on each side of the words. Portions of the words "CHICAGO GRILL" and of the horizontal lines and bars have gray shading. The words "EST. 1943" are in black.		
Goods/Services	Class 043. First use: First Use: 2007/03/31 First Use In Commerce: 2007/03/31 Carry-out restaurants; Fast-food restaurants; Restaurant and bar services; Take-out restaurant services		

U.S. Registration No.	4039247	Application Date	03/10/2009
Registration Date	10/11/2011	Foreign Priority Date	NONE
Word Mark	CAFE UNO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1989/12/31 First Use In Commerce: 1989/12/31 Prepared alcoholic cocktails, namely, prepared Irish coffee; prepared alcoholic- cocktails containing coffee

Attachments	76096861#TMSN.png(bytes) 77294939#TMSN.png(bytes) 77818098#TMSN.png(bytes) 77132170#TMSN.png(bytes) 77982391#TMSN.png(bytes) 86900086 UNO POR FAVOR opposition.pdf(89131 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 First Class Mail on this date.

Signature	/johnlwelch/
Name	John L. Welch
Date	08/03/2016

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

PIZZERIA UNO CORPORATION,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
LEOBARDO TREVINO,)	Application S.N.
)	86/900,086
Applicant.)	

NOTICE OF OPPOSITION

PIZZERIA UNO CORPORATION (Opposer), a Delaware corporation with an office at 1209 Orange Street, Wilmington, Delaware 19801, believes that it will be damaged by registration of the mark UNO POR FAVOR, which mark is the subject of Application Serial No. 86/900,086 filed by Leobardo Trevino of Hidalgo, Texas, and which mark was published for opposition in the *Official Gazette* of July 5, 2016.

The grounds for the opposition are as follows:

1. Applicant seeks to register the mark UNO POR FAVOR, in standard character form, as a trademark for “Alcoholic beverages, except beer; Tequila” (in international class 33).
2. The opposed Application was filed on February 7, 2016, based upon an alleged *bona fide* intention to use the mark in commerce.
3. In 1943, Opposer's predecessor in interest adopted the marks and names UNO and PIZZERIA UNO, and Opposer and its predecessors have since used said marks and names, and variations thereof, continuously and extensively in interstate

commerce in connection with restaurant services and food products, including the serving of beverages, both alcoholic and non-alcoholic. Among the beverages served in Opposer’s restaurants have been liquid refreshments offered under the marks UNO AMBER ALE®, CAFE UNO®, UNO COLADA, SANGRIA PUNCHERUNO, UNO RASPBERRY LIME RICKEY, UNO SOUTHSIDE LEMONADE, THE UNO BLOODY MARY, and UNOMARTINI. Furthermore, Opposer currently licenses the mark UNO to a third-party for use in connection with the marketing and sale of wines under the mark PURO UNO.

4. There are presently in operation more than one hundred and forty UNO restaurants throughout the United States, which collectively serve millions of customers each year. In addition, Opposer has extensively and continuously used its marks and names UNO and PIZZERIA UNO and variations thereof 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 UNO and PIZZERIA UNO and variations thereof, Opposer has built a strong national reputation for high quality restaurant services and food and beverage products sold under its marks. The marks and names UNO and PIZZERIA UNO have, long prior to Applicant’s filing, come to be famous, and they uniquely and distinctively identify Opposer and its products and services.

5. Opposer is the owner of, *inter alia*, the United States Trademark and Service Mark Registrations listed immediately below.

<u>Reg. No.</u>	<u>Mark</u>	<u>Issued</u>	<u>Goods and Services</u>
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
2,561,335	UNO AMBER ALE	4/16/02	ale
2,900,824	UNO CHICAGO GRILL	11/2/04	restaurant services
3,426,686	NUMERO UNO	5/13/08	pizza for consumption on or off the premises
3,757,594	NUMERO UNO	3/9/10	partially pre-cooked pizza sold in retail stores
3,925,806	UNO CHICAGO GRILL & Design	3/1/11	carry-out restaurants; fast-food restaurants; restaurant and bar services; take-out restaurant services.
4,039,247	CAFE UNO	10/11/11	prepared alcoholic cocktails, namely, prepared Irish coffee; prepared alcoholic cocktails containing coffee

6. The goods set forth in Application Serial No. 86/900,086 are closely related, or identical, to the goods and services in connection with which Opposer has used and is using its UNO, PIZZERIA UNO, and related 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.

7. The applied-for mark sought to be registered by Applicant incorporates Opposer's registered mark UNO and is substantially similar to Opposer's marks set forth above.

8. Consequently, if Applicant's mark is used in connection with the goods identified in Application Serial No. 86/900,086, it would be likely to cause confusion, mistake, or deception of the relevant trade and public. Customers and potential customers are likely to believe that Applicant's goods offered under the mark UNO

POR FAVOR 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.

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

WHEREFORE, Opposer believes that it will be damaged by registration of said mark, and prays that this Opposition be sustained, that Application Serial No. 86/900,086 be rejected, and that the mark applied for therein be refused registration.

PIZZERIA UNO CORPORATION



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3rd day of August, 2016, a true copy of the foregoing NOTICE OF OPPOSITION was served by first-class mail, postage pre-paid on:

ERIK J. OSTERRIEDER
OSTERRIEDER, LLC
511 W. PIERCE ST.
HOUSTON, TEXAS 77019



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