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

Proceeding	91229341
Party	Plaintiff Pizzeria Uno Corporation
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Submission	Motion to Amend Pleading/Amended Pleading
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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PIZZERIA UNO CORPORATION,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.
	)	91229341
	)	
LEOBARDO TREVINO,	)	Application S.N.
	)	86/900,086
Applicant.	)	
	)	

AMENDED NOTICE OF OPPOSITION UNDER RULE 15(a)(1)(B), FRCP

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, under Section 1(b) of the Trademark Act, 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.

<b><u>Reg. No.</u></b>	<b><u>Mark</u></b>	<b><u>Issued</u></b>	<b><u>Goods and Services</u></b>
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.

COUNT I - LIKELIHOOD OF CONFUSION

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.

COUNT II – LACK OF *BONA FIDE* INTENT

9. On information and belief, at the time of filing Application Serial No. 86/900,086, Applicant lacked the requisite *bona fide* intent to use the mark UNO POR FAVOR on the goods identified therein – namely, Alcoholic beverages, except beer; Tequila.

10. Consequently, Application Serial No. 86/900,086 is void *ab initio*.

11. 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.

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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.

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PIZZERIA UNO CORPORATION



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 9<sup>th</sup> 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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John L. Welch