

ESTTA Tracking number: **ESTTA852010**

Filing date: **10/13/2017**

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	Napco, Inc.
Granted to Date of previous extension	12/13/2017
Address	1141 N. Raddant Road Battavia, IL 60510 UNITED STATES

Correspondence information	Joseph F. Schmidt Taft Stettinius & Hollister LLP 111 E. Wacker Drive, Ste. 2800 Chicago, IL 60601 UNITED STATES Email: sf-ipdocket@taftlaw.com, jschmidt@taftlaw.com Phone: 3128364178
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### Applicant Information

Application No	87154469	Publication date	08/15/2017
Opposition Filing Date	10/13/2017	Opposition Period Ends	12/13/2017
Applicant	Jackson, Jonathan David 4705 Harvey Way Long Beach, CA 90808 UNITED STATES		

### Goods/Services Affected by Opposition

Class 030. First Use: 2015/07/28 First Use In Commerce: 2015/07/28  
All goods and services in the class are opposed, namely: Coffee-based iced beverages

### 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.	4339128	Application Date	10/13/2010
Registration Date	05/21/2013	Foreign Priority Date	NONE
Word Mark	PAPA NICK'S		

Design Mark	<b>PAPA NICK'S</b>		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2013/02/08 First Use In Commerce: 2013/02/08 Coffee		


U.S. Registration No.	2763216	Application Date	12/06/2000
Registration Date	09/16/2003	Foreign Priority Date	NONE
Word Mark	PAPA POINTS		
Design Mark	<b>PAPA•POINTS</b>		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1998/09/08 First Use In Commerce: 1998/09/08 COFFEE Class 035. First use: First Use: 1998/09/08 First Use In Commerce: 1998/09/08 PROMOTING THE SALE OF COFFEE THROUGH THE ADMINISTRATION OF INCENTIVE AWARD PROGRAMS		

U.S. Registration No.	1681340	Application Date	09/05/1990
Registration Date	03/31/1992	Foreign Priority Date	NONE
Word Mark	PAPANICHOLAS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1989/10/16 First Use In Commerce: 1989/10/16 coffee		

U.S. Registration No.	3684548	Application Date	03/21/2006
Registration Date	09/15/2009	Foreign Priority Date	NONE

Word Mark	PAPANICHOLAS FRESHLY ROASTED COFFEE
Design Mark	 The logo is an oval with a double-line border. Inside the oval, the words "FRESHLY ROASTED" are at the top, "PAPANICHOLAS" is in the center in a large, stylized font, and "COFFEE" is at the bottom.
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2006/04/00 First Use In Commerce: 2006/04/00 coffee Class 043. First use: First Use: 2006/04/00 First Use In Commerce: 2006/04/00 [ restaurant and coffee cafe services ]

U.S. Registration No.	4490637	Application Date	05/23/2013
Registration Date	03/04/2014	Foreign Priority Date	NONE

Word Mark	PAPANICHOLAS PREMIUM COFFEE
Design Mark	 The logo is a dark oval with a white border. Inside, the word "PREMIUM" is at the top, "PAPANICHOLAS" is in the center in a large, bold font, and "COFFEE" is at the bottom.
Description of Mark	The mark consists of the terms "PAPANICHOLAS PREMIUM COFFEE" in an oval with a line around the inside border of the oval. The term "PAPANICHOLAS" is in the center of the oval and the word "PREMIUM" is above the term "PAPANICHOLAS" with an elliptical line below the word "PREMIUM", and the word "COFFEE" is below the term "PAPANICHOLAS" with an elliptical line above the word "COFFEE".
Goods/Services	Class 030. First use: First Use: 2011/12/31 First Use In Commerce: 2011/12/31 coffee

Attachments	85151880#TMSN.png( bytes ) 76176741#TMSN.png( bytes ) 78842697#TMSN.png( bytes )
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Signature	/Joseph F. Schmidt/
Name	Joseph F. Schmidt
Date	10/13/2017

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
IN THE US PATENT AND TRADEMARK OFFICE**

Napco, Inc.

*Opposer,*

v.

Jonathan David Jackson  
d/b/a Papa's Cold Brew Coffee,

*Applicant.*

Opposition No.

Serial No.: 87/154,469  
Mark: PAPA'S COLD BREW  
BOLD & SMOOTH COFFEE  
Filed: August 29, 2016  
Published: August 15, 2017

**NOTICE OF OPPOSITION**

Napco, Inc. believes that it will be damaged by registration of the above mark, and hereby opposes registration thereof and alleges as follows:

1. Jonathan David Jackson, d/b/a Papa's Cold Brew Coffee (hereinafter "applicant"), an individual, located at 4705 Harvey Way, Long Beach, California 90808, filed application Serial No. 87/154,469 on August 29, 2016 to register the mark PAPA'S COLD BREW BOLD & SMOOTH COFFEE, and the application was published on August 15, 2017.

2. Applicant seeks to register the mark for "coffee-based iced beverages" in Class 30.

3. Napco, Inc. (hereinafter "opposer"), is a corporation organized under the laws of Illinois, with a place of business at 1141 N Raddant Road, Batavia, Illinois, 60510.

4. Opposer has been engaged for many years in the business of producing and distributing coffee products, including, but not limited to, coffee, cocoa mix for making cocoa drinks, energy drinks, and cold brew coffee bags for making iced coffee beverages.

5. Prior to August 29, 2016, the filing date applicant's application, opposer adopted and has continuously used in interstate commerce the marks PAPANICHOLAS, PAPA NICK'S and PAPA●POINTS in connection with coffee products.

6. Opposer is the owner of the following U.S. registrations and applications ("Opposer's Marks"): Reg. No. 4,339,128, dated May 21, 2013, for the mark PAPA NICK'S for "coffee", Reg. No. 2,763,216, dated September 16, 2003, for the mark PAPA●POINTS for "coffee; promoting the sale of coffee through the administration of incentive award programs", Reg. No. 1,681,340, dated March 31, 1992, for the mark PAPANICHOLAS for "coffee", Reg. No. 3,684,548, dated 9/15/2009, for the mark PAPANICHOLAS FRESHLY ROASTED COFFEE & Design for "coffee; restaurant and coffee café services", Reg. No. 4,490,637, dated March 4, 2014, for mark PAPANICHOLAS PREMIUM COFFEE & Design for "coffee", Serial No. 87/608,139, dated September 14, 2017, for the mark PAPA for "coffee, coffee beverages, cocoa mix for making hot chocolate and cocoa drinks", and Serial No. 87/608,157, dated September 14, 2017, for the mark PAPA'S for "coffee, coffee beverages, cocoa mix for making hot chocolate and cocoa drinks".

7. As a result of opposer's use of Opposer's Marks, Opposer's Marks have become widely and favorably known throughout the United States, and have become recognized by the trade and public as identifying opposer's goods and distinguishing opposer's goods from the goods of others and opposer has established an exceedingly valuable goodwill in Opposer's Marks.

8. The mark "PAPA'S COLD BREW BOLD & SMOOTH COFFEE" sought to be registered by applicant is confusingly similar to Opposer's Marks. Applicant seeks to register the mark "PAPA'S COLD BREW BOLD & SMOOTH COFFEE" for goods identical to those goods

in connection with which the opposer has used Opposer's Marks. Upon information and belief, the goods of applicant and the goods of opposer are intended to be sold to the same customers.

9. Applicant's mark "PAPA'S COLD BREW BOLD & SMOOTH COFFEE", when used on or in connection with the goods of applicant, so resembles Opposer's Marks as to be likely to cause confusion, or to cause mistake, or to deceive, and opposer will be damaged as a result thereof. Registration of applicant's mark should be refused under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

10. Opposer will also be damaged because registration of applicant's mark will interfere with opposer's right to register its trademarks PAPA and PAPA'S.

WHEREFORE, opposer prays that this opposition be sustained and that registration of applicant's mark be refused.

Dated: October 13, 2017

/s/ Joseph F. Schmidt  
Joseph F. Schmidt  
TAFT STETTINIUS & HOLLISTER LLP  
111 East Wacker Drive  
Suite 2800  
Chicago, IL 60601  
Telephone: 312-836-4178

Attorney for Opposer, Napco, Inc.

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 13, 2017, a true copy of the foregoing Notice of Opposition was served on applicant via email and by the United States Postal service, first class mail, postage prepaid as follows:

Jonathan David Jackson  
Papa's Cold Brew Coffee  
4705 Harvey Way  
Long Beach, CA 90808  
E-mail: jdjacks54@gmail.com

/s/ Joseph F. Schmidt  
Attorney for Opposer