

ESTTA Tracking number: **ESTTA917538**

Filing date: **08/23/2018**

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 6176468000		
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Applicant Information

Application No	87821726	Publication date	08/21/2018
Opposition Filing Date	08/23/2018	Opposition Period Ends	09/20/2018
Applicant	Uno Dos Tres, LLC 1407 Fleetfoot Drive Waukesha, WI 53186 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Restaurant services, namely, providing of food and beverages for consumption on and off the premises

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.	1143732	Application Date	01/23/1978
Registration Date	12/16/1980	Foreign Priority Date	NONE
Word Mark	PIZZERIA DUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1957/07/00 First Use In Commerce: 1957/07/00 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.	1613333	Application Date	08/14/1989
Registration Date	09/11/1990	Foreign Priority Date	NONE
Word Mark	NUMERO UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1979/04/00 First Use In Commerce: 1980/10/00 RESTAURANT SERVICES		


U.S. Registration	2900824	Application Date	06/11/2003
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No.			
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.	3231293	Application Date	06/25/2005
Registration Date	04/17/2007	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 take-away restaurant services		

U.S. Registration No.	3376478	Application Date	05/19/2005
Registration Date	01/29/2008	Foreign Priority Date	NONE
Word Mark	UNO EXPRESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2005/11/30 First Use In Commerce: 2005/11/30 restaurant services and take-out food services		

U.S. Registration No.	3573325	Application Date	05/31/2007
Registration Date	02/10/2009	Foreign Priority Date	NONE
Word Mark	UNO DUE GO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2008/11/30 First Use In Commerce: 2008/11/30 Carry-out restaurants; Restaurant services; Take-out restaurant services		

U.S. Registration No.	4367817	Application Date	11/14/2012
Registration Date	07/16/2013	Foreign Priority Date	NONE
Word Mark	UDG UNO DUÉ# GO		
Design Mark			
Description of Mark	The mark consists of the letter "UDG" arranged vertically, over the stacked words "uno due go", all to the left of a design representing a shock of wheat.		
Goods/Services	Class 043. First use: First Use: 2011/10/31 First Use In Commerce: 2011/10/31 Restaurant services; Take-out restaurant services		

U.S. Registration	4660778	Application Date	10/15/2013
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No.			
Registration Date	12/23/2014	Foreign Priority Date	NONE
Word Mark	UNO PIZZERIA & GRILL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2013/06/30 First Use In Commerce: 2013/06/30 Restaurant and bar services; restaurantservices; take-out restaurant services		

Attachments	78658295#TMSN.png(bytes) 78633329#TMSN.png(bytes) 77194230#TMSN.png(bytes) 85779191#TMSN.png(bytes) 86092268#TMSN.png(bytes) 87821726 Notice of opposition.pdf(93811 bytes)
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Signature	/johnlwelch/
Name	John L Welch
Date	08/23/2018

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

PIZZERIA UNO CORPORATION,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
UNO DOS TRES, LLC,)	Application S.N.
)	87/821,726
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 DOS TRES, which mark is the subject of Application Serial No. 87/821,726, filed by Uno Dos Tres, LLC, of Waukesha, Wisconsin, and which mark was published for opposition in the *Official Gazette* of August 21, 2018.

The grounds for the opposition are as follows:

1. Applicant seeks to register the mark UNO DOS TRES as a service mark for “Restaurant services, namely, providing of food and beverages for consumption on and off the premises” (in international class 43).

2. The opposed Application was filed on March 6, 2018, 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 PIZZERIA UNO and 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 and bar services and food and beverage products.

4. There are presently in operation more than 110 UNO restaurants throughout the United States, which collectively serve millions of customers each year. In addition, through extensive advertising, promotion, and use of the mark and name UNO and variations thereof, including UNO DUE GO, Opposer has built a strong national reputation for high quality restaurant services and food and beverage products sold under its marks. In addition to its UNO marks, Opposer has for more than six decades used the mark PIZZERIA DUE in connection with restaurants 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
1,143,732	PIZZERIA DUE	12/16/80	restaurant services
1,329,014	UNO	4/2/85	restaurant services
1,586,246	UNO'S	3/6/90	restaurant services
1,613,333	NUMERO UNO	9/11/90	restaurant services
2,900,824	UNO CHICAGO GRILL	11/2/04	restaurant services
3,231,293	UNO CHICAGO GRILL	4/17/07	take-away restaurant services
3,376,478	UNO EXPRESS	1/29/08	Restaurant services and take-out food services
3,573,325	UNO DUE GO	2/10/09	carry-out restaurants; Restaurant services; Take-out restaurant services.

4,367,817		7/16/13	Restaurant services; Take-out restaurant services
4,660,778	UNO PIZZERIA & GRILL	12/23/14	Restaurant and bar services; restaurant services; take-out restaurant services.

6. The services set forth in Application Serial No. 87/821,726 are identical to the services with which Opposer has used and is using its UNO marks, including its marks UNO DUE GO and PIZZERIA DUE. On information and belief, Applicant's services will be offered to the same general class of customers who purchase the services with which Opposer has used and is using its various 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. The services set forth in Application Serial No. 87/821,726 are so related to the services with which Opposer has used and is using its various marks that, if Applicant's mark is used in connection with those services, it would be likely to cause confusion, mistake, or deception of relevant. Customers and potential customers are likely to believe that Applicant's services offered under the mark UNO DOS TRES

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 UNO DOS TRES mark, 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. 87/821,726 be rejected, and that the mark applied for therein be refused registration.

PIZZERIA UNO CORPORATION



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