

ESTTA Tracking number: **ESTTA1197267**

Filing date: **03/17/2022**

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

Proceeding no.	91256413
Party	Plaintiff OlÃ© Mexican Foods, Inc.
Correspondence address	PAUL S OWENS PAUL OWENS & ASSOCIATES PO BOX 15310 ATLANTA, GA 30333 UNITED STATES Primary email: psowens@bellsouth.net 404-370-9800
Submission	Request for Discovery Conference
Filer's name	Paul S. Owens
Filer's email	psowens@bellsouth.net
Signature	/paul s. owens/
Date	03/17/2022
Attachments	Opposers Request for Discovery Conference w Exhs A to C.pdf(725576 bytes)

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

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In the Matter of Trademark Appl'n No.:
88-646,951

For the Mark: OLÉ CHAMOYLE

Filing date: October 8, 2019

OLÉ MEXICAN FOODS, INC.,

Opposer,

v.

Opposition No. 91256413

CERVEZA CITRUS L.L.C.,

Applicant.

-----X

REQUEST FOR DISCOVERY CONFERENCE

Opposer requests a telephone conference, pursuant to TBMP §502.06(a), to address a discovery dispute that has arisen in this matter. The events leading up to this request are as follows:

- On February 10, 2022, the Board ordered discovery reopened to allow the parties to take discovery in light of Opposer's objection to Applicant's motion to amend its mark. Discovery was reset to close on March 28, 2022.
- On February 12, 2022, Opposer served Applicant its First Set of Interrogatories and Second Request for Production of Documents. Opposer also asked Applicant to provide available dates for a 30(b)(6) deposition of Applicant and included a Topic List for that deposition. See email attached as Exhibit A.

- On February 23, 2022, Opposer followed up with Applicant via email, again seeking available dates for a 30(b)(6) deposition. See email attached as Exhibit B.
- On March 3, 2022, Opposer followed up with Applicant via phone and email, and attached Notices of Depositions for Applicant's 30(b)(6) deposition, as well as Notices of Deposition for Applicant's individual witnesses. The depositions were noticed for March 24-25, 2008. See email attached as Exhibit C.
- Applicant's responses to Opposer's written discovery requests were due March 14, 2022. Applicant did not serve any responses, nor has it responded to Opposer's repeated requests to provide dates for a 30(b)(6) deposition.

With discovery set to close March 28, 2022, Opposer believes that a telephone conference with the Interlocutory Attoreny would be the most efficient way to resolve this dispute, and keep this matter moving forward on schedule, and requests that such a conference be scheduled.

Dated: March 17, 2022

Respectfully submitted,

/paul s. owens/
Paul S. Owens, Esq.
Attorney for Opposer--Olé Mexican
Foods, Inc.
Paul Owens & Associates
P.O. Box 15310
Atlanta, GA 30333-0310

Tel: (404) 370-9800
E-mail: psowens@bellsouth.net

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of March, 2022, a true and correct copy of the foregoing Opposer Olé Mexican Foods, Inc.'s Request for Discovery Conference was served on Applicant by emailing a copy to Applicant's attorney of record at:

Richard A. Ryan, Esq.
Email: Richard@fresnopatentlaw.com

/paul s. owens/
Paul S. Owens, Esq.

Exhibit A

Paul S. Owens

From: Paul S. Owens <psowens@bellsouth.net>
Sent: Saturday, February 12, 2022 4:19 PM
To: Richard Ryan (richard@fresnopatentlaw.com)
Subject: "Olé Mexican Foods, Inc. v. Cerveza Citrus L.L.C."-- Opposition No. 91256413
Attachments: OMF's First Set of Interrogatories.pdf; Opposer's Second Request for Production of Documents.pdf; EXHIBIT A--Topics to be Explored at Rule 30(b)(6) Deposition.pdf

Richard:

Attached are Opposer's First Set of Interrogatories and Second Request for Production of Documents in connection with the above-captioned matter.

Discovery is scheduled to close on March 28, 2022. Please let me know the dates of availability between March 21-28 for a 30(b)(6) deposition of Cerveza Citrus, as well as Kyle P. Bell and Ryan S. Milan for individual deposition. Attached is a Topic List for the 30(b)(6) deposition. Let me know if the witnesses are amenable to deposition by Zoom.

Finally, Applicant's Responses to Opposer's First Request for Production of Documents at Request Nos. 1-6 indicate that Applicant plans to supplement its responses. Please supplement those responses well before the witnesses' depositions.

Thanks. Talk to you soon.

Paul S. Owens
Tel: 404-370-9800
E-mail: psowens@bellsouth.net
Website: www.paulowensandassociates.com



Mailing Address:
P.O. Box 15310
Atlanta Georgia 30333-0310

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Exhibit B

Paul S. Owens

From: Paul S. Owens <psowens@bellsouth.net>
Sent: Wednesday, February 23, 2022 5:35 PM
To: Richard Ryan (richard@fresnopatentlaw.com)
Subject: FW: "Olé Mexican Foods, Inc. v. Cerveza Citrus L.L.C."-- Opposition No. 91256413
Attachments: OMF's First Set of Interrogatories.pdf; Opposer's Second Request for Production of Documents.pdf; EXHIBIT A--Topics to be Explored at Rule 30(b)(6) Deposition.pdf

Richard:

This is a follow-up to my February 12 email below. Please let me know the dates of availability for Cerveza Citrus's witnesses and their availability for Zoom deposition. Thanks.

Paul S. Owens
Tel: 404-370-9800
E-mail: psowens@bellsouth.net
Website: www.paulowensandassociates.com



Paul
Owens & Associates

Mailing Address:

P.O. Box 15310
Atlanta Georgia 30333-0310

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Finally, Applicant's Responses to Opposer's First Request for Production of Documents at Request Nos. 1-6 indicate that Applicant plans to supplement its responses. Please supplement those responses well before the witnesses' depositions.

Thanks. Talk to you soon.

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Exhibit C

Paul S. Owens

From: Paul S. Owens <psowens@bellsouth.net>
Sent: Thursday, March 03, 2022 2:56 PM
To: Richard Ryan (richard@fresnopatentlaw.com)
Subject: "Olé Mexican Foods, Inc. v. Cerveza Citrus L.L.C."-- Opposition No. 91256413
Attachments: Cerveza Citrus--30(b)(6) Notice of Deposition.pdf; Ryan S. Milan--Notice of Deposition.pdf; Kyle P. Bell--Notice of Deposition.pdf

Importance: High

Richard:

This email is further to the telephone message I left for you earlier today, as well as my February 12 and February 23 emails, regarding the dates of availability of Cerveza Citrus, Ryan S. Milan, and Kyle P. Bell for deposition in connection with the above-captioned matter. I haven't heard back from you. Attached are notices of deposition for each of these witnesses. Please confirm if these dates are okay with the witnesses and also whether the parties can stipulate to taking these depositions by Zoom.

Thanks. I look forward to hearing from you soon.

Paul S. Owens
Tel: 404-370-9800
E-mail: psowens@bellsouth.net
Website: www.paulowensandassociates.com



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