

ESTTA Tracking number: **ESTTA1224090**

Filing date: **07/25/2022**

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	Plaintiff's Notice of Reliance
Filer's name	Paul S. Owens
Filer's email	psowens@bellsouth.net
Signature	/paul s. owens/
Date	07/25/2022
Attachments	Opposers Fourth Notice of Reliance.pdf(2274961 bytes )

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

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

For the Mark: OLE' CHAMOYLE

Filing date: October 8, 2019

OLÉ MEXICAN FOODS, INC.,  
Opposer,

Opposition No. 91256413

v.

CERVEZA CITRUS, L.L.C.,  
Applicant.

-----X

**OPPOSER'S FOURTH NOTICE OF RELIANCE**

Opposer, Olé Mexican Foods, Inc. ("Opposer"), pursuant to 37 C.F.R. § 2.122(e)(1) and 2.122(g), hereby gives notice of its reliance on and introduces into evidence documents from the USPTO's TESS and TTABVUE records showing Opposer's efforts to enforce its trademark rights in its OLÉ Mark when used on identical or related goods/services. These documents are relevant to show the commercial strength of Opposer's OLÉ Mark.

1. OLÉ HOT'N FRUITY and Design (Reg. No. 5,788,151) for use with "sauces, namely, hot sauces." Attached hereto as Exhibit 1 are the TESS page and TTABVUE docket sheet and Docket No. 10 for this registration showing that Opposer petitioned to cancel this registration on May 24, 2021 and that the registration was cancelled with prejudice by the Board on February 11, 2022.

2. OLE' UNCLE PORKERS (Appl'n No. 88/678,706) for use with "pork rinds." Attached hereto as Exhibit 2 are the TESS page and TTABVUE docket sheet and Docket No. 8 for this application showing that Opposer opposed this application on June 17, 2020 and that the application was withdrawn with prejudice on December 7, 2020.

3. iOLÉ (stylized)(Appl'n No. 86/681,454) for use in Class 29 with "Blended cheese; Canned processed olives; Cheese; Cheese and cracker combinations; Cheese containing herbs; Cheese containing spices; Cheese fondue; Cheese food; Cheese in the form of dips; Cheese making kits; Cottage cheese; Cream cheese; Dipping oil in the nature of flavored olive oil; Farmer's cheese; Feta cheese; Flavored olive oil; Food package combinations consisting primarily of cheese, meat and/or processed fruit; Fresh unripened cheeses; Ham; Head cheese; Mold-ripened cheese; Mould-ripened cheese; Nut cheese, namely, cheese-type product made from nuts; Olive oil; Olive oils; Olive pastes; Panela cheese; Parmesan cheese; Pork; Preserved, dried and cooked olives; Processed cheese; Processed olives; Raw, non-dairy cheese made from fermented cashews; Refrigerated food package combinations consisting primarily of meat, cheese or processed vegetables for purposes of creating a sandwich; Ripened cheese; Ripened cheeses; Romano cheese; Sheep cheese; Soft cheese; Soft white cheese; Soft-ripened cheese; Strained cheese; Strained soft white cheeses; Tinned olives; White cheese." Attached as Exhibit 3 are the TESS page and TTABVUE docket sheet showing that Opposer petitioned to cancel this registration on November 19, 2021 and that the Cancellation is in the discovery period.

4. OLÉ RICO (Appl'n No. 88/903,710) for use in Class 30 with "Mexican Seasonings; spices; dried chili peppers, candy" and OLE RICO (Appl'n No. 90/122,169) for use in Class 30 with "Candy; Dried chili peppers; Seasoning, namely, Mexican; Spices." Attached hereto as Exhibit 4 are the TESS page and TTABVUE docket sheet for these applications showing that Opposer opposed these applications on January 27, 2021, and April 29, 2021, respectively, and Opposer's Trial Brief is due on September 16, 2022 in the Consolidated Opposition.

5. OLE OLIVES SPANISH TAPAS (Appl'n No. 97/026,473) for use in Class 29 with "Preserved olives; Preserved peppers." Attached hereto as Exhibit 5 are the TESS page and TTABVUE docket sheet showing that Opposer opposed this application on July 12, 2022 and this Opposition is in the discovery period.

6. OLÉ! and Thermometer Man Design (Appl'n No. 76/576,674) for use with "frozen prepared meals consisting primarily of pasta or rice." Attached as Exhibit 6 is the TESS and TTABVUE docket and Docket No. 21 for this application showing that Opposer opposed this application on September 6, 2005 and that the Opposition was granted with prejudice on March 19, 2007

7. OLÉ O'CLOCK and Design (Appl'n No. 86/147,713) for use with "Frozen Mexican style entrees and appetizers consisting primarily of meats, cheeses, vegetables and/or beans in Class 29; and, Frozen entrees and appetizers consisting primarily of tortillas and dough enrobed goods consisting of a dough based wrapper with fillings consisting primarily of rice, vegetables, beans and cheese; Frozen Mexican style foods, namely, burritos, taquitos, tacos, quesadillas,

chimichangas and tamales in Class 30.” Attached as Exhibit 7 are the TESS page and TTABVUE docket sheet for these applications showing that Opposer requested extensions of time to oppose this application, and that Applicant withdrew its application with prejudice on August 31, 2015.

8. OLE (Appl’n No. 76/309,914) and OLE FOODS (Appl’n No. 76/309,915) each for use with “retail grocery store services.” Attached as Exhibit 8 are the TESS and TTABVUE docket sheet and Docket No. 45 for these applications showing that Opposer opposed these applications on April 25, 2003 and April 5, 2004, respectively, and that the applications were both withdrawn with prejudice on January 18, 2006.

Dated: July 25, 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 25<sup>th</sup> day of July 2022, a true and correct copy of the foregoing Opposer’s Fourth Notice of Reliance with attachments thereto were served on counsel for Applicant by emailing a copy to Applicant’s attorneys of record at:

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

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

# **EXHIBIT 1**



## Trademarks > Trademark Electronic Search System (TESS)

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### Record 1 out of 1

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**Word Mark** OLÉ HOT'N FRUITY

**Goods and Services** (CANCELLED) IC 030. US 046. G & S: sauces, namely, hot sauces. FIRST USE: 19980331. FIRST USE IN COMMERCE: 20140531

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 05.11.09 - Peppers  
27.03.04 - Plants forming letters or numerals

**Serial Number** 87110634

**Filing Date** July 20, 2016

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** August 1, 2017

**Registration Number** 5788151

**Registration Date** June 25, 2019

**Owner** (REGISTRANT) Especies Exoticas Esxot Cia. Ltda. CORPORATION ECUADOR 23 de Abril Oe12-372 y 25 de Noviembre Llano Grande, Quito ECUADOR

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** PERLA M KUHN

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOT" AND "FRUITY" APART FROM THE MARK AS SHOWN

**Description of Mark** The color(s) red, green and black is/are claimed as a feature of the mark. The mark consists of the word "OLE" in stylized red letters outlined in black, the letter "O" in "OLE" is formed by the design of a pepper in red and green, below the word "OLE" appear the words "HOT'N FRUITY" in stylized red letters of smaller size outlined in black.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** DEAD

**Cancellation Date** February 18, 2022

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TTABVUE. Trademark Trial and Appeal Board Inquiry System

v2.2.2

Cancellation

Number: 92077227

Filing Date: 05/24/2021

Status: Terminated

Status Date: 02/18/2022

General Contact Number: 571-272-8500

Interlocutory Attorney: MIKE WEBSTER

Paralegal Name: KARL S KOCHERSPERGER

Defendant

Name: Especies Exoticas Esxot Cia. Ltda.

Correspondence: PERLA M KUHN

FOX ROTHSCHILD LLP  
PRINCETON PIKE CORPORATE CENTER, 997 LENOX DRIVE  
BUILDING 3  
LAWRENCEVILLE, NJ 08648-2311  
UNITED STATES  
IPDocket@foxrothschild.com, pkuhn@foxrothschild.com  
Phone: 212-878-1424

Serial #: 87110634      Application File      Assignment      **Registration #:** 5788151

Application Status: Cancelled - Section 18

Mark: OLÉ HOT'N FRUITY

Plaintiff

Name: Ole Mexican Foods, Inc.

Correspondence: PAUL S OWENS

PAUL OWENS & ASSOCIATES  
PO BOX 15310  
ATLANTA, GA 30333  
UNITED STATES  
psowens@bellsouth.net  
Phone: 404-370-9800

Serial #: 77924000      Application File      Assignment      **Registration #:** 4292655

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: OLÉ MEXICAN FOODS EST. 1988

Serial #: 76438776      Application File      Assignment      **Registration #:** 2740014

Application Status: REGISTERED AND RENEWED

Mark: OLÉ

Serial #: 76619200      Application File      Assignment      **Registration #:** 3223608

Application Status: Section 15 - Acknowledged

Mark: OLÉ

Serial #: [77426608](#)    [Application File](#)    [Assignment](#)

Registration #: [4899762](#)

**Application Status:** Section 8 and 15 - Accepted and Acknowledged

**Mark:** OLÉ MEXICAN FOODS EST. 1988

**Prosecution History**

#	Date	History Text	Due Date
11	02/18/2022	TERMINATED	
<a href="#">10</a>	02/18/2022	<a href="#">COMMR ORDER CANCELLING REG</a>	
<a href="#">9</a>	02/11/2022	<a href="#">BD DECISION: CAN GRANTED</a>	
<a href="#">8</a>	02/04/2022	<a href="#">VOLUNTARY SURRENDER OF REGISTRATION</a>	
<a href="#">7</a>	09/03/2021	<a href="#">ANSWER</a>	
<a href="#">6</a>	08/07/2021	<a href="#">TRIAL DATES RESET</a>	
<a href="#">5</a>	07/29/2021	<a href="#">P MOT TO AMEND PLEADING/AMENDED PLEADING</a>	
<a href="#">4</a>	06/23/2021	<a href="#">ANSWER</a>	
<a href="#">3</a>	05/25/2021	INSTITUTED	
<a href="#">2</a>	05/25/2021	<a href="#">NOTICE AND TRIAL DATES SENT; ANSWER DUE:</a>	07/04/2021
<a href="#">1</a>	05/24/2021	<a href="#">FILED AND FEE</a>	

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**Search:**

February 18, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

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*Ole Mexican Foods, Inc.*

*v.*

*Especies Exoticas Esxot Cia. Ltda.*

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Cancellation No. 92077227

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Paul S. Owens of Paul Owens & Associates for Ole Mexican Foods, Inc.

Perla M. Kuhn of Fox Rothschild LLP for Especies Exoticas Esxot Cia. Ltda.

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The petition of Ole Mexican Foods, Inc. having been granted on February 11, 2022,  
Registration No. 5788151 is hereby cancelled.

# **EXHIBIT 2**



## Trademarks > Trademark Electronic Search System (TESS)

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# Ole' Uncle Porkers

<b>Word Mark</b>	OLE' UNCLE PORKERS
<b>Goods and Services</b>	(ABANDONED) IC 029. US 046. G & S: Pork rinds. FIRST USE: 20190520. FIRST USE IN COMMERCE: 20190520
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	<b>88678706</b>
<b>Filing Date</b>	November 4, 2019
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	March 17, 2020
<b>Owner</b>	(APPLICANT) Six Hogs LLC LIMITED LIABILITY COMPANY KENTUCKY 302 American Greeting Card Road Corbin KENTUCKY 40701
<b>Attorney of Record</b>	SUZAN HIXON
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	DEAD
<b>Abandonment Date</b>	December 8, 2020

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Opposition

Number: 91256457

Filing Date: 06/17/2020

Status: Terminated

Status Date: 12/08/2020

General Contact Number: 571-272-8500

Interlocutory Attorney: [ANN LINNEHAN VOGLER](#)

Paralegal Name: [AMY L MATELSKI](#)

Defendant

Name: [Six Hogs LLC](#)

Correspondence: [SUZAN HIXON](#)

HIXON LAW PLLC  
8381 WEST HAL ROGERS PKWY  
LONDON, KY 40741  
UNITED STATES  
suzi@hixonlaw.com  
Phone: 502-345-7894

Serial #: [88678706](#)

[Application File](#)

[Assignment](#)

Application Status: Abandoned - After Inter-Partes Decision

Mark: OLE' UNCLE PORKERS

Plaintiff

Name: [Olé Mexican Foods, Inc.](#)

Correspondence: [PAUL S. OWENS](#)

PAUL OWENS & ASSOCIATES  
P.O. BOX 15310  
ATLANTA, GA 30333  
UNITED STATES  
psowens@bellsouth.net  
Phone: 404-370-9800

Serial #: [76619200](#)

[Application File](#)

[Assignment](#)

Registration #: [3223608](#)

Application Status: Section 15 - Acknowledged

Mark: OLÉ

Serial #: [76438776](#)

[Application File](#)

[Assignment](#)

Registration #: [2740014](#)

Application Status: REGISTERED AND RENEWED

Mark: OLÉ

Prosecution History

#	Date	History Text	Due Date
9	12/08/2020	TERMINATED	
<a href="#">8</a>	12/08/2020	<a href="#">BD DECISION: OPP SUSTAINED</a>	
<a href="#">7</a>	12/07/2020	<a href="#">W/DRAW OF APPLICATION</a>	
<a href="#">6</a>	08/27/2020	<a href="#">SUSPENDED</a>	
<a href="#">5</a>	08/27/2020	<a href="#">D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS</a>	

## Prosecution History

#	Date	History Text	Due Date
<a href="#">4</a>	07/27/2020	<a href="#">ANSWER</a>	
<a href="#">3</a>	06/17/2020	INSTITUTED	
<a href="#">2</a>	06/17/2020	<a href="#">NOTICE AND TRIAL DATES SENT; ANSWER DUE:</a>	07/27/2020
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UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500  
General Email: [TTABInfo@uspto.gov](mailto:TTABInfo@uspto.gov)

am

December 8, 2020

Opposition No. 91256457

*Olé Mexican Foods, Inc.*

*v.*

*Six Hogs LLC*

**By the Trademark Trial and Appeal Board:**

On December 7, 2020, Applicant filed an abandonment of its application Serial No. 88678706 with prejudice.

Trademark Rule 2.135 provides that if, in an *inter partes* proceeding, the Applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against Applicant.

In view thereof, and because Opposer's written consent to the abandonment is not of record, judgment is hereby entered against Applicant, the opposition is sustained and registration to Applicant is refused.

# **EXHIBIT 3**



# Trademarks > Trademark Electronic Search System (TESS)

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## Record 1 out of 1

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) *( Use the "Back" button of the Internet Browser to return to TESS)*

**Word Mark** IOLÉ

**Goods and Services** IC 029. US 046. G & S: Blended cheese; Canned processed olives; Cheese; Cheese and cracker combinations; Cheese containing herbs; Cheese containing spices; Cheese fondue; Cheese food; Cheese in the form of dips; Cheese making kits; Cottage cheese; Cream cheese; Dipping oil in the nature of flavored olive oil; Farmer's cheese; Feta cheese; Flavored olive oil; Food package combinations consisting primarily of cheese, meat and/or processed fruit; Fresh unripened cheeses; Ham; Head cheese; Mold-ripened cheese; Mould-ripened cheese; Nut cheese, namely, cheese-type product made from nuts; Olive oil; Olive oils; Olive pastes; Panela cheese; Parmesan cheese; Pork; Preserved, dried and cooked olives; Processed cheese; Processed olives; Raw, non-dairy cheese made from fermented cashews; Refrigerated food package combinations consisting primarily of meat, cheese or processed vegetables for purposes of creating a sandwich; Ripened cheese; Ripened cheeses; Romano cheese; Sheep cheese; Soft cheese; Soft white cheese; Soft-ripened cheese; Strained cheese; Strained soft white cheeses; Tinned olives; White cheese. FIRST USE: 20140810. FIRST USE IN COMMERCE: 20140814

IC 032. US 045 046 048. G & S: Beer; Beer wort; Beer, ale and lager; Beer, ale and porter; Beer, ale, lager, stout and porter; Beer, ale, lager, stout, porter, shandy; Beer-based cocktails; Beer-based coolers; Beers; Black beer; Brewed malt-based beers; Coffee-flavored beer; De-alcoholised beer; Flavored beers; Ginger beer; Hop extracts for manufacturing beer; Malt beer; Non-alcoholic beer; Non-alcoholic beer flavored beverages; Pale beer; Porter. FIRST USE: 20151116. FIRST USE IN COMMERCE: 20151202

IC 033. US 047 049. G & S: Aperitif wines; Cooking wine; Dessert wines; Fortified wines; Fruit wine; Grape wine; Hard cider; Honey wine; Natural sparkling wines; Port wines; Red wine; Red wines; Rose wine; Rose wines; Sparkling fruit wine; Sparkling grape wine; Sparkling wines; Still wines; Strawberry wine; Sweet wines; Table wines; White wine; White wines; Wine; Wine-based beverage, namely, piquette; Wine-based drinks; Wines; Wines and fortified wines; Wines and liqueurs; Wines and sparkling wines. FIRST USE: 20160322. FIRST USE IN COMMERCE: 20160424

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 86681454

**Filing Date** July 2, 2015

**Current Basis** 1A

**Original** 1B

**Filing Basis****Published**

for January 26, 2016

**Opposition**

**Registration Number** 5096461

**Registration Date** December 6, 2016

**Owner** (REGISTRANT) PRODICEX SOLUTIONS, S.L. DBA IOLE LIMITED LIABILITY COMPANY SPAIN EDIFICIO CEEI PARQUE TECNOLOGICO DE ASTURIAS LLANERA SPAIN 33428

**Attorney of Record** JOHN S HALE

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the words "iole" in any format or color.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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TTABVUE. Trademark Trial and Appeal Board Inquiry System

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## Cancellation

**Number:** 92078483

**Status:** Pending

**Filing Date:** 11/19/2021

**Status Date:** 03/31/2022

**General Contact Number:** 571-272-8500

**Interlocutory Attorney:** [WENDY COHEN](#)

**Paralegal Name:** [NICOLE M THIER](#)

### Defendant

**Name:** [Prodicex Solutions, S.L.](#)

**Correspondence:** [JOHN S HALE](#)

GIPPLE & HALE  
6718 WHITTIER AVENUE, SUITE 200  
MCLEAN, VA 22101  
UNITED STATES  
6718gipplehale@gmail.com  
Phone: 703-628-4188

**Serial #:** [86681454](#)    [Application File](#)    [Assignment](#)

**Registration #:** [5096461](#)

**Application Status:** Cancellation Pending

**Mark:** IOLÉ

### Plaintiff

**Name:** [Olé Mexican Foods, Inc.](#)

**Correspondence:** [PAUL S OWENS](#)

PAUL OWENS & ASSOCIATES  
PO BOX 15310  
ATLANTA, GA 30333  
UNITED STATES  
psowens@bellsouth.net  
Phone: 404-370-9800

**Serial #:** [76619200](#)    [Application File](#)    [Assignment](#)

**Registration #:** [3223608](#)

**Application Status:** Section 15 - Acknowledged

**Mark:** OLÉ

**Serial #:** [77924000](#)    [Application File](#)    [Assignment](#)

**Registration #:** [4292655](#)

**Application Status:** Section 8 and 15 - Accepted and Acknowledged

**Mark:** OLÉ MEXICAN FOODS EST. 1988

**Serial #:** [76438776](#)    [Application File](#)    [Assignment](#)

**Registration #:** [2740014](#)

**Application Status:** REGISTERED AND RENEWED

**Mark:** OLÉ

**Serial #:** [77426608](#)    [Application File](#)    [Assignment](#)

**Registration #:** [4899762](#)

**Application Status:** Section 8 and 15 - Accepted and Acknowledged

Mark: OLÉ MEXICAN FOODS EST. 1988

## Prosecution History

#	Date	History Text	Due Date
<a href="#">14</a>	07/14/2022	<a href="#">PAPER RECEIVED AT TTAB</a>	
<a href="#">13</a>	05/24/2022	<a href="#">TRIAL DATES RESET</a>	
<a href="#">12</a>	04/04/2022	<a href="#">D RESP TO BD ORDER/INQUIRY</a>	
<a href="#">11</a>	04/04/2022	<a href="#">D APPEARANCE / POWER OF ATTORNEY</a>	
<a href="#">10</a>	04/04/2022	<a href="#">D APPEARANCE / POWER OF ATTORNEY</a>	
<a href="#">9</a>	03/29/2022	<a href="#">D MOT FOR EXT W/O CONSENT</a>	
<a href="#">8</a>	03/28/2022	<a href="#">D APPEARANCE / POWER OF ATTORNEY</a>	
<a href="#">7</a>	02/28/2022	<a href="#">RESPONSE DUE 30 DAYS (DUE DATE)</a>	03/30/2022
<a href="#">6</a>	02/17/2022	<a href="#">P MOT FOR DEFAULT JUDGMENT</a>	
<a href="#">5</a>	02/07/2022	<a href="#">D RESP TO BD ORDER/INQUIRY</a>	
<a href="#">4</a>	01/09/2022	<a href="#">NOTICE OF DEFAULT</a>	
<a href="#">3</a>	11/19/2021	INSTITUTED	
<a href="#">2</a>	11/19/2021	<a href="#">NOTICE AND TRIAL DATES SENT; ANSWER DUE:</a>	12/29/2021
<a href="#">1</a>	11/19/2021	<a href="#">FILED AND FEE</a>	

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# **EXHIBIT 4**



## Trademarks > Trademark Electronic Search System (TESS)

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### Record 1 out of 1

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# OLÉ RICO

<b>Word Mark</b>	OLÉ RICO
<b>Translations</b>	The English translation of "RICO" is "rich".
<b>Goods and Services</b>	IC 028. US 022 023 038 050. G & S: Party favor hats; paper party favors IC 030. US 046. G & S: Mexican seasonings; spices; dried chili peppers; candy
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	<b>88903710</b>
<b>Filing Date</b>	May 6, 2020
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	October 6, 2020
<b>Owner</b>	(APPLICANT) Mission Laredo Partners, L.C. LIMITED LIABILITY COMPANY TEXAS 1418 Zaragoza St. Laredo TEXAS 78040
<b>Attorney of Record</b>	CHERYL L. BURBACH
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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## Trademarks > Trademark Electronic Search System (TESS)

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### Record 1 out of 1

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)

# Ole Rico

<b>Word Mark</b>	OLE RICO
<b>Translations</b>	The English translation of "Rico" in the mark is "rich".
<b>Goods and Services</b>	IC 028. US 022 023 038 050. G & S: Party favor hats; Paper party favors  IC 030. US 046. G & S: Candy; Dried chili peppers; Seasonings, namely, Mexican; Spices
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	<b>90122169</b>
<b>Filing Date</b>	August 18, 2020
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	January 26, 2021
<b>Owner</b>	(APPLICANT) Mission Laredo Partners, L.C. LIMITED LIABILITY COMPANY TEXAS 1418 Zaragoza St. Laredo TEXAS 78040
<b>Attorney of Record</b>	CHERYL L. BURBACH
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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## TTABVUE. Trademark Trial and Appeal Board Inquiry System

v2.2.2

### Opposition

**Number:** 91267312

**Filing Date:** 01/27/2021

**Status:** Pending

**Status Date:** 01/27/2021

**General Contact Number:** 571-272-8500

**Interlocutory Attorney:** [ANDREW P BAXLEY](#)

**Paralegal Name:** [LALITA R WEBB](#)

#### Defendant

**Name:** [Mission Laredo Partners, L.C.](#)

**Correspondence:** [CHERYL L. BURBACH](#)

HOVEY WILLIAMS LLP

10801 MASTIN BLVD SUITE 1000, CORPORATE WOODS, BUILDING 84

OVERLAND PARK, KS 66210

UNITED STATES

[tmdocketing.burbach@hovewilliams.com](mailto:tmdocketing.burbach@hovewilliams.com), [cburbach@hovewilliams.com](mailto:cburbach@hovewilliams.com),

[bbarbieri@hovewilliams.com](mailto:bbarbieri@hovewilliams.com), [litigation@hovewilliams.com](mailto:litigation@hovewilliams.com)

Phone: 913-649-9050

**Serial #:** [88903710](#)

[Application File](#)

[Assignment](#)

**Application Status:** Opposition Pending

**Mark:** OLÉ RICO

#### Plaintiff

**Name:** [Olé Mexican Foods, Inc.](#)

**Correspondence:** [PAUL S. OWENS](#)

PAUL OWENS & ASSOCIATES

P.O. BOX 15310

ATLANTA, GA 30333

UNITED STATES

[psowens@bellsouth.net](mailto:psowens@bellsouth.net)

Phone: 404-370-9800

**Serial #:** [77924000](#)

[Application File](#)

[Assignment](#)

**Registration #:** [4292655](#)

**Application Status:** Section 8 and 15 - Accepted and Acknowledged

**Mark:** OLÉ MEXICAN FOODS EST. 1988

**Serial #:** [76619200](#)

[Application File](#)

[Assignment](#)

**Registration #:** [3223608](#)

**Application Status:** Section 15 - Acknowledged

**Mark:** OLÉ

**Serial #:** [77426608](#)

[Application File](#)

[Assignment](#)

**Registration #:** [4899762](#)

**Application Status:** Section 8 and 15 - Accepted and Acknowledged

**Mark:** OLÉ MEXICAN FOODS EST. 1988

**Serial #:** [76438776](#)

[Application File](#)

[Assignment](#)

**Registration #:** [2740014](#)

**Application Status:** REGISTERED AND RENEWED

**Mark:** OLÉ

**Prosecution History**

#	Date	History Text	Due Date
<a href="#">36</a>	07/18/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">35</a>	07/16/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">34</a>	07/16/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">33</a>	07/16/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">32</a>	07/16/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">31</a>	07/16/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">30</a>	07/16/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">29</a>	07/16/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">28</a>	07/16/2022	<a href="#">P TESTIMONY</a>	
27	07/16/2022	P CONFIDENTIAL TESTIMONY	
<a href="#">26</a>	07/16/2022	<a href="#">P TESTIMONY</a>	
25	06/03/2022	D CONFIDENTIAL TESTIMONY	
<a href="#">24</a>	06/03/2022	<a href="#">D NOTICE OF RELIANCE</a>	
<a href="#">23</a>	06/03/2022	<a href="#">D TESTIMONY</a>	
<a href="#">22</a>	03/11/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">21</a>	03/11/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">20</a>	03/11/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">19</a>	03/11/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">18</a>	03/11/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">17</a>	03/11/2022	<a href="#">P NOTICE OF RELIANCE</a>	
<a href="#">16</a>	03/11/2022	<a href="#">P NOTICE OF RELIANCE</a>	
15	03/10/2022	P CONFIDENTIAL TESTIMONY	
<a href="#">14</a>	03/10/2022	<a href="#">P TESTIMONY</a>	
13	03/10/2022	P CONFIDENTIAL TESTIMONY	
<a href="#">12</a>	03/10/2022	<a href="#">P TESTIMONY</a>	
<a href="#">11</a>	03/10/2022	<a href="#">P TESTIMONY</a>	
<a href="#">10</a>	06/03/2021	<a href="#">CONSOLIDATED W/91269049; TRIAL DATES RESET</a>	
<a href="#">9</a>	05/25/2021	<a href="#">P MOT TO CONSOLIDATE</a>	
<a href="#">8</a>	05/13/2021	<a href="#">ANSWER</a>	
<a href="#">7</a>	05/11/2021	<a href="#">TRIAL DATES RESET</a>	
<a href="#">6</a>	05/03/2021	<a href="#">ANSWER TO AMENDED PLEADING DUE</a>	
<a href="#">5</a>	04/29/2021	<a href="#">P MOT TO AMEND PLEADING/AMENDED PLEADING</a>	
<a href="#">4</a>	02/19/2021	<a href="#">ANSWER</a>	
3	01/27/2021	INSTITUTED	
<a href="#">2</a>	01/27/2021	<a href="#">NOTICE AND TRIAL DATES SENT; ANSWER DUE:</a>	03/08/2021
<a href="#">1</a>	01/27/2021	<a href="#">FILED AND FEE</a>	

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# **EXHIBIT 5**



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### Record 1 out of 1

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<b>Word Mark</b>	OLE OLIVES SPANISH TAPAS
<b>Translations</b>	The English translation of "tapas" in the mark is "savories"; The wording OLE has no meaning in a foreign language.
<b>Goods and Services</b>	IC 029. US 046. G & S: Preserved olives; Preserved peppers. FIRST USE: 20170906. FIRST USE IN COMMERCE: 20181018
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Serial Number</b>	97026473
<b>Filing Date</b>	September 14, 2021
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	March 15, 2022
<b>Owner</b>	(APPLICANT) GONZALEZ GARCIA, ALVARO INDIVIDUAL SPAIN Calle Juan Ajuriaguerra, 9-4 Bilbao, Vizcaya SPAIN 48009
<b>Attorney of Record</b>	VIVIAN ORTIZ-PONCE
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OLIVES" AND "SPANISH TAPAS" APART FROM THE MARK AS SHOWN
<b>Description of Mark</b>	The mark consists of the wording OLE in stylized letters over the wording OLIVES in stylized letters and over the wording SPANISH TAPAS in stylized letters.
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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TTABVUE. Trademark Trial and Appeal Board Inquiry System

v2.2.2

Opposition

Number: 91277304

Status: Pending

Filing Date: 07/12/2022

Status Date: 07/12/2022

General Contact Number: 571-272-8500

Interlocutory Attorney: [WENDY COHEN](#)

Paralegal Name: [CHAUNTE T AUSTIN](#)

Defendant

Name: [GONZALEZ GARCIA, ALVARO](#)

Correspondence: [VIVIAN ORTIZ-PONCE](#)

MARCAS ESTADOS UNIDOS  
P.O. BOX 9024163  
SAN JUAN, PR 00902-4163  
UNITED STATES  
mail@marcas-estadosunidos.com, serviciosmarcarios@yahoo.com,  
arturo@perezguerrero.com  
Phone: 787-722-3446

Serial #: [97026473](#)

[Application File](#)

[Assignment](#)

Application Status: Opposition Pending

Mark: OLE OLIVES SPANISH TAPAS

Plaintiff

Name: [Olé Mexican Foods, Inc.](#)

Correspondence: [PAUL S. OWENS](#)

PAUL OWENS & ASSOCIATES  
P.O. BOX 15310  
ATLANTA, GA 30333  
UNITED STATES  
psowens@bellsouth.net  
Phone: 404-370-9800

Serial #: [76619200](#)

[Application File](#)

[Assignment](#)

Registration #: [3223608](#)

Application Status: Section 15 - Acknowledged

Mark: OLÉ

Serial #: [78595748](#)

[Application File](#)

[Assignment](#)

Registration #: [3161729](#)

Application Status: REGISTERED AND RENEWED

Mark: OLÉ

Serial #: [77924000](#)

[Application File](#)

[Assignment](#)

Registration #: [4292655](#)

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: OLÉ MEXICAN FOODS EST. 1988

Serial #: [77426608](#)

[Application File](#)

[Assignment](#)

Registration #: [4899762](#)

**Application Status:** Section 8 and 15 - Accepted and Acknowledged

**Mark:** OLÉ MEXICAN FOODS EST. 1988

**Serial #:** [76438776](#)

[Application File](#)

[Assignment](#)

**Registration #:** [2740014](#)

**Application Status:** REGISTERED AND RENEWED

**Mark:** OLÉ

**Prosecution History**

#	Date	History Text	Due Date
3	07/12/2022	INSTITUTED	
<a href="#">2</a>	07/12/2022	<a href="#">NOTICE AND TRIAL DATES SENT; ANSWER DUE:</a>	08/21/2022
<a href="#">1</a>	07/12/2022	<a href="#">FILED AND FEE</a>	

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# EXHIBIT 6



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**Word Mark** OLÉ!

**Goods and Services** (CANCELLED) IC 029. US 046. G & S: FROZEN MEALS CONSISTING PRIMARILY OF ANIMAL PROTEIN IN THE NATURE OF MEAT, FISH, OR POULTRY. FIRST USE: 20040102. FIRST USE IN COMMERCE: 20040102

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code**  
02.01.01 - Busts of men facing forward; Heads of men facing forward; Men - heads, portraiture, or busts facing forward; Portraiture of men facing forward  
02.01.33 - Grotesque men formed by letters, numbers, punctuation or geometric shapes; Stick figures  
02.11.06 - Beards; Hair; Hair extensions; Human hair, locks of hair, wigs, beards, mustaches; Mustaches; Toupees; Wigs  
04.01.07 - Aliens; Apollo (mythology); Athena (mythology); Caped characters (super heroes); Ghosts; Mythological beings, superbeings, ghosts, aliens; Super heroes; Zeus (mythology)  
04.07.02 - Objects forming a person; Person formed by objects  
09.01.04 - Bows, decorative; Ribbons, giftwrap (gift wrap); Ribbons, hair  
09.03.12 - Gloves, golf; Gloves, winter; Gloves, Work; Holders, pot; Mittens; Work gloves  
09.05.05 - Sombreros, cowboy hats (10 gallon hats), other broad-brimmed hats

**Serial Number** 76576674

**Filing Date** February 23, 2004

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** December 14, 2004

**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED

**Registration Number** 2930371

**Registration** March 8, 2005

**Date**  
**Owner** (REGISTRANT) Request Foods, Inc. CORPORATION MICHIGAN 3460 John F. Donnelly Drive Holland MICHIGAN 49424  
**Attorney of Record** Douglas H. Siegel  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** DEAD  
**Cancellation Date** September 21, 2012

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TTABVUE. Trademark Trial and Appeal Board Inquiry System

v2.2.2

Opposition

Number: 91166577

Filing Date: 09/06/2005

Status: Terminated

Status Date: 03/19/2007

General Contact Number: 571-272-8500

Interlocutory Attorney: [GEORGE POLOGEORGIS](#)

Paralegal Name: [JOI WILSON](#)

Defendant

Name: [Request Foods, Inc.](#)

Correspondence: [DOUGLAS H. SIEGEL](#)

PRICE, HENEVELD, COOPER, DEWITT  
P.O. BOX 2567  
GRAND RAPIDS, MI 49501  
UNITED STATES

Serial #: [76576661](#)

[Application File](#)

[Assignment](#)

Application Status: Abandoned - After Inter-Partes Decision

Mark: OLE!

Plaintiff

Name: [OLE MEXICAN FOODS, INC.](#)

Correspondence: [Paul S. Owens](#)

Paul Owens & Associates  
P.O. Box 15310  
Atlanta, GA 30333  
UNITED STATES  
psowens@bellsouth.net

Granted To Date: 09/07/2005

Prosecution History

#	Date	History Text	Due Date
22	03/19/2007	TERMINATED	
<a href="#">21</a>	03/19/2007	<a href="#">BOARD'S DECISION: SUSTAINED</a>	
<a href="#">20</a>	01/31/2007	<a href="#">NOTICE OF DEFAULT</a>	
<a href="#">19</a>	05/31/2006	<a href="#">SUSPENDED</a>	
<a href="#">18</a>	05/19/2006	<a href="#">DEF'S CONSENTED MOTION TO SUSPEND</a>	
<a href="#">17</a>	04/19/2006	<a href="#">PROCEEDINGS RESUMED</a>	
<a href="#">16</a>	03/09/2006	<a href="#">RESPONSE DUE 30 DAYS (DUE DATE).</a>	04/08/2006
<a href="#">15</a>	03/02/2006	<a href="#">AMENDMENT DRAWING</a>	
<a href="#">14</a>	03/02/2006	<a href="#">AMENDMENT TO DRAWING</a>	
<a href="#">13</a>	02/06/2006	<a href="#">EXTENSION OF TIME GRANTED</a>	
<a href="#">12</a>	02/03/2006	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
<a href="#">11</a>	01/06/2006	<a href="#">EXTENSION OF TIME GRANTED</a>	
<a href="#">10</a>	01/06/2006	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	

## Prosecution History

#	Date	History Text	Due Date
<a href="#">9</a>	12/06/2005	<a href="#">EXTENSION OF TIME GRANTED</a>	
<a href="#">8</a>	12/06/2005	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
<a href="#">7</a>	11/07/2005	<a href="#">D'S MOT FOR EXTEN. OF TIME W/ CONSENT</a>	
<a href="#">6</a>	11/04/2005	<a href="#">EXTENSION OF TIME GRANTED</a>	
<a href="#">5</a>	11/04/2005	<a href="#">STIPULATION FOR AN EXTENSION OF TIME</a>	
<a href="#">4</a>	10/27/2005	<a href="#">D'S MOT FOR EXTEN. OF TIME W/ CONSENT</a>	
<a href="#">3</a>	09/14/2005	PENDING, INSTITUTED	
<a href="#">2</a>	09/14/2005	<a href="#">NOTICE AND TRIAL DATES SENT; ANSWER DUE:</a>	10/24/2005
<a href="#">1</a>	09/06/2005	<a href="#">FILED AND FEE</a>	

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UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

kes

Mailed: March 19, 2007

Opposition No. 91166577

OLE MEXICAN FOODS, INC.

v.

Request Foods, Inc.

On January 31, 2007, the Board sent a notice of default to applicant because no answer had been filed.

The record shows no response thereto.

Accordingly, judgment by default is hereby entered against applicant, the opposition is sustained, and registration to applicant is refused. See Fed. R. Civ. P. 55, and Trademark Rule 2.106(a).

*By the Trademark Trial  
and Appeal Board*

# **EXHIBIT 7**



## Trademarks > Trademark Electronic Search System (TESS)

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### Record 1 out of 1

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)

# OLE' O'CLOCK

**Word Mark** OLE' O'CLOCK

**Goods and Services** (ABANDONED) IC 029. US 046. G & S: Frozen Mexican style entrees and appetizers consisting primarily of meats, cheeses, vegetables and/or beans

(ABANDONED) IC 030. US 046. G & S: Frozen entrees and appetizers consisting primarily of tortillas and dough enrobed goods consisting of a dough based wrapper with fillings consisting primarily of rice, vegetables, beans and cheese; Frozen Mexican style foods, namely, burritos, taquitos, tacos, quesadillas, chimichangas and tamales

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 86147713

**Filing Date** December 18, 2013

**Current Basis** 1B

**Original Filing Basis** 1B

**Published for Opposition** May 19, 2015

**Owner** (APPLICANT) Windsor Quality Food Company, Ltd. DBA Windsor Foods WQFCGP, LLC, General Partner, a Delaware limited liability company PARTNERSHIP TEXAS Suite 100 4200 E Concourse Dr Ontario CALIFORNIA 91764

**Prior Registrations** 2628945;3110852

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** DEAD

**Abandonment Date** August 31, 2015

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## TTABVUE. Trademark Trial and Appeal Board Inquiry System

v2.2.2

### Extension of Time

**Number:** 86147713

**Status:** Terminated

**Filing Date:** 06/16/2015

**Status Date:** 09/16/2015

**General Contact Number:** 571-272-8500

**Paralegal Name:** [LALITA R WEBB](#)

**Opposition #:**

#### Defendant

**Name:** [Windsor Quality Food Company, Ltd.](#)

**Correspondence:** [WINDSOR QUALTIY FOOD COMPANY, LTD.](#)  
WINDSOR QUALTIY FOOD COMPANY, LTD.  
4200 E CONCOURS DR STE 100  
ONTARIO, CA 91764

**Serial #:** [86147713](#)

[Application File](#)

[Assignment](#)

**Application Status:** ABANDONED - EXPRESS AFTER PUB

**Mark:** OLE' O'CLOCK

#### Potential Opposer

**Name:** [Olé Mexican Foods, Inc.](#)

**Correspondence:** [Paul S. Owens](#)  
Paul Owens & Associates  
P.O. Box 15310  
Atlanta, GA 30333  
UNITED STATES  
psowens@bellsouth.net  
Phone: 404-370-9800

**Granted To Date:** 09/16/2015

#### Prosecution History

#	Date	History Text
<a href="#">4</a>	07/17/2015	<a href="#">EXTENSION OF TIME GRANTED</a>
<a href="#">3</a>	07/17/2015	<a href="#">INCOMING - EXT TIME TO OPPOSE FILED</a>
<a href="#">2</a>	06/16/2015	<a href="#">EXTENSION OF TIME GRANTED</a>
<a href="#">1</a>	06/16/2015	<a href="#">INCOMING - EXT TIME TO OPPOSE FILED</a>

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**Search:**

# **EXHIBIT 8**



## Trademarks > Trademark Electronic Search System (TESS)

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### Record 1 out of 1

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)

# OLE

**Word Mark** OLE  
**Goods and Services** (ABANDONED) IC 035. US 100 101 102. G & S: retail grocery store services  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 76309914  
**Filing Date** September 5, 2001  
**Current Basis** 1B  
**Original Filing Basis** 1B  
**Published for Opposition** December 24, 2002  
**Owner** (APPLICANT) Brookshire Grocery Company CORPORATION TEXAS 1600 W.S.W. Loop 323 P. O. Box 1411 Tyler TEXAS 75710  
**Attorney of Record** J. Ray Riley, Esq.  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** DEAD  
**Abandonment Date** January 19, 2006

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## Trademarks > Trademark Electronic Search System (TESS)

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[Logout](#) Please logout when you are done to release system resources allocated for you.

### Record 1 out of 1

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)

# OLE FOODS

<b>Word Mark</b>	OLE FOODS
<b>Goods and Services</b>	(ABANDONED) IC 035. US 100 101 102. G & S: retail grocery store services. FIRST USE: 20011100. FIRST USE IN COMMERCE: 20011100
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76309915
<b>Filing Date</b>	September 5, 2001
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	March 2, 2004
<b>Owner</b>	(APPLICANT) Brookshire Grocery Company CORPORATION TEXAS 1600 W.S.W. Loop 323 P. O. Box 1411 Tyler TEXAS 75710
<b>Attorney of Record</b>	J. Ray Riley, Esq.
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FOODS" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	DEAD
<b>Abandonment Date</b>	January 19, 2006

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Opposition

Number: 91156557

Filing Date: 04/25/2003

Status: Terminated

Status Date: 02/23/2006

General Contact Number: 571-272-8500

Interlocutory Attorney: [ANDREW P BAXLEY](#)

Paralegal Name: [AMY L MATELSKI](#)

Defendant

Name: [Brookshire Grocery Company](#)

Correspondence: [PRISCILLA L. DUNCKEL](#)  
BAKER BOTTS, L.L.P.  
2001 ROSS AVENUE, SUITE 600  
DALLAS, TX 75201-2980  
UNITED STATES

Serial #: [76309914](#)

[Application File](#)

[Assignment](#)

Application Status: Abandoned - After Inter-Partes Decision

Mark: OLE

Plaintiff

Name: [OLE MEXICAN FOODS, INC](#)

Correspondence: [PAUL S. OWENS, ESQ.](#)  
P.O. BOX 15310  
ATLANTA, GA 30333-0310  
UNITED STATES

Serial #: [76491776](#)

[Application File](#)

[Assignment](#)

Registration #: [2800134](#)

Application Status: Cancelled - Section 8

Mark: TASTY & TRUSTWORTHY

Granted To Date: 04/23/2003

Prosecution History

#	Date	History Text	Due Date
48	02/23/2006	TERMINATED	
<a href="#">47</a>	01/18/2006	<a href="#">COPY OF #44</a>	
46	01/19/2006	TERMINATED	
<a href="#">45</a>	01/19/2006	<a href="#">BOARD'S DECISION: SUSTAINED</a>	
<a href="#">44</a>	01/18/2006	<a href="#">WITHDRAWAL OF APPLICATION</a>	
<a href="#">43</a>	12/16/2005	<a href="#">PROCS HEREIN ARE RESUMED; REMAINING TESTIMONY PERIODS ARE RESET</a>	
<a href="#">42</a>	12/14/2005	<a href="#">DF'S WITHDRAWAL OF DEPOSITION NOTICES; REQ RESET DATES</a>	
<a href="#">41</a>	10/28/2005	<a href="#">D'S ALLOWED FIFTEEN DAYS FROM THE MAILING DATE OF THIS ORDER IN WHICH TO SERVE REDIRECT QUESTIONS</a>	
<a href="#">40</a>	10/24/2005	<a href="#">D'S REQ FOR RECON OF 9/23/05 ORDER</a>	
<a href="#">39</a>	10/24/2005	<a href="#">D'S REQ TO CLARIFY NUMBER OF DAYS LEFT IN TESTIMONY PERIOD</a>	

## Prosecution History

#	Date	History Text	Due Date
38	09/23/2005	<a href="#">D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY</a>	
37	09/23/2005	<a href="#">PROCS REMAIN SUSPENDED TO ALLOW FOR THE ORDERLY COMPLETION OF D'S TESTIMONY DEPOSITIONS UPON WRITTEN</a>	
36	06/01/2005	<a href="#">D'S RESPONSE TO P'S MOTION TO QUASH D'S NOTICE OF DEPOSITION TO NON-PARTY WITNESS AND FOR OTHER RELI</a>	
35	05/25/2005	<a href="#">D'S REPLY TO P'S RESPONSE IN OPPOSITION TO D'S MOTION TO ENLARGE TIME FOR FILING NOTICE OF DEPOSITIO</a>	
34	04/29/2005	<a href="#">P'S RESPONSE IN OPPOSITION TO D'S MOTION TO ENLARGE TIME FOR FILING NOTICE OF DEPOSITION ON WRITTEN</a>	
33	04/27/2005	<a href="#">D'S BROOKSHIRE'S OPPOSITION TO P'S MOTION TO REOPEN AND BROOKSHIRE'S REPLY TO P'S RESPONSE CONCERNIN</a>	
32	04/29/2005	<a href="#">P'S MOTION TO SUSPEND IS GRANTED AS WELL TAKEN TO THE EXTENT THAT THE FILING OF P'S APRIL</a>	
31	04/22/2005	<a href="#">P'S MOTION TO QUASH</a>	
30	04/18/2005	<a href="#">P'S NOTICE OF RELIANCE</a>	
29	04/13/2005	<a href="#">D'S SUPPLEMENTAL NOTICE OF DEPOSITION ON WRITTEN QUESTIONS</a>	
28	04/11/2005	<a href="#">P'S RESPONSE IN OPPOSITION TO D'S MOTION TO STRIKE PORTIONS OF P'S SECOND NOTICE OF RELIANCE AND D'S</a>	
27	04/05/2005	CONFIDENTIAL - DEPOSITION OF R. STORY	
26	03/28/2005	<a href="#">D'S WITHDRAWAL OF BROOKSHIRE'S MOTIONS TO STRIKE P'S UNTIMELY FILE RESPONSE TO D'S MOTION AND FIRST</a>	
25	03/28/2005	<a href="#">D'S NOTICE OF DEPOSITIONS ON WRITTEN QUESTIONS</a>	
24	03/23/2005	<a href="#">D'S MOTION TO STRIKE P'S UNTIMELY FILED RESPONSE TO D'S FIRST AMENDED MOTION TO STRIKE P'S UNTIMELY</a>	
23	03/10/2005	<a href="#">P'S SUPPLEMENTAL SECOND NOTICE OF RELIANCE</a>	
22	03/09/2005	<a href="#">D'S MOTION TO STRIKE PORTIONS OF P'S SECOND NOTICE OF RELIANCE</a>	
21	03/15/2005	<a href="#">P'S RESPONSE IN OPPOSITION TO D'S FIRST AMENDED MOTION TO STRIKE P'S UNTIMELY TESTIMONY DEPOSITION</a>	
20	03/01/2005	<a href="#">P'S RESPONSE IN OPPOSITION TO D'S MOTION TO STRIKE P'S UNTIMELY TESTIMONY DEPOSITION</a>	
19	03/01/2005	<a href="#">D'S FIRST AMENDED MOTION TO STRIKE P'S TESTIMONY DEPOSITION AND FOR PROTECTIVE ORDER</a>	
18	02/22/2005	<a href="#">PLAINTIFF'S NOTICE OF RELIANCE</a>	
17	02/09/2005	<a href="#">DEF'S MOTION TO STRIKE PL'S UNTIMELY TESTIMONY DEPOSITION AND FOR PROTECTIVE ORDER</a>	
16	01/24/2005	<a href="#">STIPULATION FILED NOV. 19, 2004 IS APPROVED; DISCOVERY AND TRIAL DATES ARE RESET</a>	
15	01/10/2005	<a href="#">PL'S JOINT MOTION FOR ENTRY OF STIPULATED PROTECTIVE ORDER</a>	
14	11/19/2004	<a href="#">STIPULATION TO EXTEND DISCOVERY DATES</a>	
13	09/10/2004	<a href="#">OPP. NOS. 156,557 AND 160,093 ARE CONSOLIDATED;PROC. ARE RESUMED, DISCOVERY AND TRIAL DATES ARE RESE</a>	
12	03/15/2004	<a href="#">P'S BRIEF IN OPP TO D's MOT FOR SANCTIONS</a>	
11	03/11/2004	<a href="#">P'S REPLY BRIEF RE: MOT TO COMPEL</a>	
10	03/19/2004	<a href="#">SUSPENDED PENDING DISP OF OUTSTNDNG MOT</a>	
9	02/20/2004	<a href="#">def's motion to sanction opposer for refusal to permit discovery</a>	
8	02/17/2004	<a href="#">def's response to pl's motion to compel</a>	
7	02/05/2004	<a href="#">pl's motion to compel</a>	
6	01/12/2004	<a href="#">pl's stip. to extend closing date of discovery period</a>	
5	01/12/2004	<a href="#">pl's stip. to extend discovery period</a>	

## Prosecution History

#	Date	History Text	Due Date
<a href="#">4</a>	07/18/2003	<a href="#">ANSWER</a>	
3	06/09/2003	PENDING, INSTITUTED	
<a href="#">2</a>	06/09/2003	<a href="#">NOTICE AND TRIAL DATES SENT; ANSWER DUE:</a>	07/19/2003
<a href="#">1</a>	04/25/2003	<a href="#">FILED AND FEE</a>	

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**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451**

am

Mailed: January 19, 2006

Opposition No. 91156557

Opposition No. 91160093

OLE MEXICAN FOODS, INC

v.

Brookshire Grocery Company

On January 18, 2006, applicant filed an abandonment of its application Serial Nos. 76309914 and 76309915 under Trademark Rule 2.68.

However, the applicable rule is Trademark Rule 2.135, which provides that if, in an inter partes proceeding, the applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant.

Accordingly, because opposer's written consent to the abandonment is not of record, judgment is hereby entered against applicant, the opposition is sustained and registration to applicant is refused.

***By the Trademark Trial  
and Appeal Board***