

ESTTA Tracking number: **ESTTA1224094**

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<br>Olá© Mexican Foods, Inc.   |
| Correspondence address | PAUL S OWENS<br>PAUL OWENS & ASSOCIATES<br>PO BOX 15310<br>ATLANTA, GA 30333<br>UNITED STATES<br>Primary email: psowens@bellsouth.net<br>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 Sixth Notice of Reliance.pdf(1984958 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,

v.

Opposition No. 91256413

CERVEZA CITRUS L.L.C.,

Applicant.

-----X

**OPPOSER'S SIXTH NOTICE OF RELIANCE**

Opposer, Olé Mexican Foods, Inc. ("Opposer"), pursuant to 37 C.F.R.2.120(k) hereby gives notice of its intent to rely in the above-captioned opposition proceeding on certain portions of the 30(b)(6) deposition of Ryan Milan, representing Applicant, Cerveza Citrus, L. L.C. ("Applicant"). The deposition of Mr. Milan was taken on April 7, 2022. An index of the particular portions on which Opposer relies is attached.

Opposer relies on this deposition testimony for the purposes of showing, *inter alia*: (i) the various pronunciations of Applicant's OLÉ CHAMOYLE mark; (ii) the relatedness of the parties' respective goods; (iii) the similar channels of trade the parties' respective goods travel in; (iv) Applicant's knowledge of Opposer's Marks; and (v) the likelihood of confusion between Opposer's and Applicant's respective marks.

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](mailto:psowens@bellsouth.net)

**INDEX OF DEPOSITION EXCERPTS AND RELATED EXHIBITS ON WHICH  
OPPOSER RELIES**

**Transcript of Ryan Milan, Designated Representative, conducted on April 7, 2022.  
*Olé Mexican Foods, Inc. v. Cerveza Citrus, LLC*, Opposition No. 91256413**

| <b>Page: Line Range</b> | <b>Exhibit(s)</b> |
|-------------------------|-------------------|
| 18:2-18:13              | 6                 |
| 19:16-20:10             |                   |
| 25:17-26:18             |                   |
| 31:4-16                 |                   |
| 31:24-32:6              |                   |
| 32:7-16                 | 8                 |
| 34:15-35:11             |                   |
| 35:24-36:14             |                   |
| 38:25-40:14             |                   |
| 42:6-43:7               |                   |
| 46:9-48:6               | 5                 |

| <b>Exhibit Number</b> | <b>Description</b>  |
|-----------------------|---|
| 5                     | Applicant's Responses to Opposer's First Set of Interrogatories                   |
| 5A                    | Applicant's Responses to Opposer's First Set of Interrogatories -<br>Verification |
| 6                     | Photograph of Olé Chamoye package of chamoy sauce and seasonings                  |
| 8                     | Screenshot of "shop" page from olechamoye.com website                             |

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25th day of July 2022, a true and correct copy of the foregoing Opposer's Sixth Notice of Reliance 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 1 – RELEVANT EXCERPTS FROM  
4.7.22 DEPOSITION  
TRANSCRIPT OF RYAN MILAN**



**Planet Depos**<sup>®</sup>  
We Make It *Happen*<sup>™</sup>

---

# Transcript of Ryan Milan

**Date:** April 7, 2022

**Case:** Ole Mexican Foods, Inc. -v- Cerveza Citrus, LLC

**Planet Depos**

**Phone:** 888.433.3767

**Email:** [transcripts@planetdepos.com](mailto:transcripts@planetdepos.com)

**www.planetdepos.com**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

\* \* \* \* \*

In the Matter of Trademark

Application 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.

\* \* \* \* \*

VIDEOCONFERENCE DEPOSITION

OF RYAN MILAN

Conducted Virtually via Zoom

Thursday, April 7, 2022

5:03 p.m. EST

Job No.: 444254

Pages 1 - 51

Reported by: Debra L. Mekula, NH LCR, RMR

1 BY MR. OWENS:

2 Q. And, Mr. Milan, just take a moment to look  
3 at this, and it's a two-page -- Exhibit 6 has two  
4 pages, a front and the back of the Olé Chamoye  
5 package.

6 If you want to -- there you go. Okay. Do  
7 you recognize this package, Mr. Milan?

8 A. Yes.

9 Q. Can you tell me what it is?

10 A. This is our Olé Chamoye packet product.

11 Q. Okay. Is this product currently being  
12 sold?

13 A. Yes.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

MR. OWENS: Pull up 6 again, please, Kip.  
(Exhibit 6 is electronically published.)

THE WITNESS: Yeah. I mean, that's the product. We have other products.

BY MR. OWENS:

Q. Okay. And is this called the to-go package?

A. It can be referred to as to-go.

Q. Okay. Do you have any other names for it?

A. Generally it's just Olé Chamoye.

1 Q. Okay. How do you distinguish it from the  
2 Dip'Ins and the candy when you're talking about it?

3 A. Generally like that. If we're talking  
4 about the Dip'In, we'll mention the Dip'In or the  
5 candy.

6 Q. But if you just say Olé Chamoye, it's  
7 understood that you're referring to the -- to this  
8 product shown at Exhibit 6.

9 A. Yes.

10 Q. Okay.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] [REDACTED]  
5 [REDACTED]  
6 [REDACTED] [REDACTED]  
7 [REDACTED] [REDACTED]  
8 [REDACTED] [REDACTED]  
9 [REDACTED] [REDACTED]  
10 [REDACTED] [REDACTED]  
11 [REDACTED]  
12 [REDACTED] [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 BY MR. OWENS:

17 Q. Mr. Milan, how would you -- the words at  
18 the top of the package are -- I'll refer to that as  
19 the name of the product. Will you understand what  
20 I'm saying when I do that?

21 A. The Olé Chamoye?

22 Q. Yes. Okay. The first word of that is  
23 pronounced Olay (phonetic); is that correct?

24 A. Yes.

25 Q. Now, are you aware of any other food

1 products on the market that use the word Olé in  
2 their name?

3 A. Not specifically. I can't mention  
4 anything.

5 Q. You don't know of any.

6 A. Right.

7 Q. Okay. Now, the second word of this  
8 product, would you pronounce it again?

9 A. It is -- I mean, it has been pronounced  
10 several different ways.

11 Q. Okay.

12 A. Chamoylay (phonetic). Chamoyle  
13 generally is how I pronounce it.

14 Q. Do you know how your customers pronounce  
15 it?

16 A. I -- I don't know. I mean, it -- I've  
17 heard it said many different ways, and I'm  
18 generally happy as long as they keep buying it.

19  
20  
21  
22  
23  
24  
25

1 MR. OWENS: Yeah.

2 (Exhibit 8 is electronically published.)

3 BY MR. OWENS:

4 Q. So I believe that you said earlier that  
5 people pronounce the second word of the name  
6 differently, and I think you gave a couple of  
7 different pronunciations.

8 And does that happen a lot where people  
9 pronounce it -- do the same people pronounce it  
10 differently at different times?

11 A. As far as I know, when someone, just a  
12 random person says it or someone I'm familiar with  
13 says it, they kind of stick with however they  
14 pronounce it, which is, you know, fine with me.  
15 It is a made-up word that we put together.

16 Q. It's hard to know how to pronounce it.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 A. As far as I know, yeah. I don't deal  
25 directly with the customers, so -- and it depends

1 on who the customer is. And I just know that I've  
2 heard it said different ways.

3 Q. Okay. And, just to be clear, who have you  
4 heard that from?

5 A. Primarily friends, family, the people that  
6 we introduce the product to.

7 Q. Now, I think I asked if you recognized  
8 this, what has been marked as Exhibit 8. Do you  
9 recognize this page?

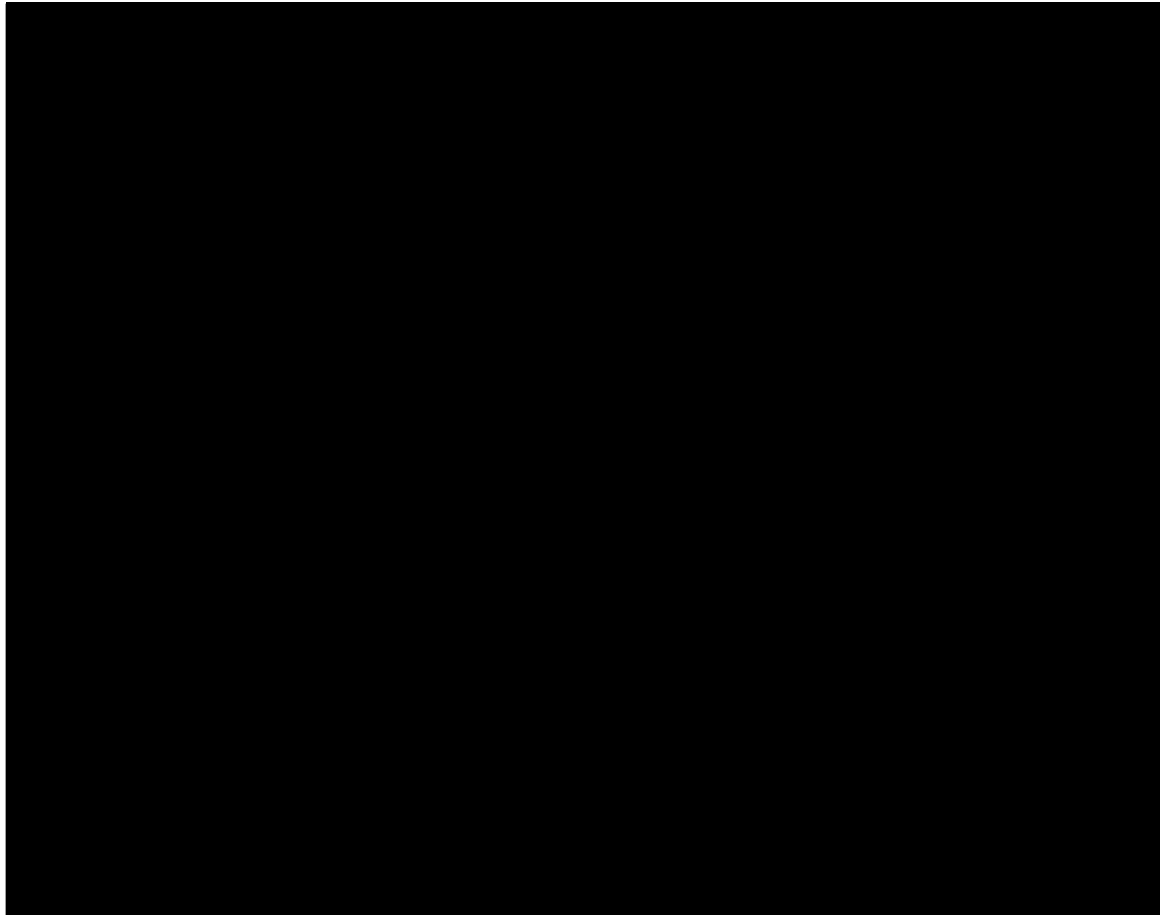
10 A. I believe so.

11 Q. It sounds like -- are you sure or are you  
12 not sure?

13 A. It's -- I mean, from what I see in the  
14 document, it looks like it's from the website. I  
15 can honestly say I haven't looked at the website in  
16 a while.

17 [REDACTED]  
18 w  
19 f  
20 w  
21 t  
22  
23  
24 b  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



Q. Now, on Exhibit 8 on the first page there's a picture of a bag for the Olé Chamoye product. Do you see that?

A. Picture? You mean --

Q. Yes, the picture sort of on the left is a picture of the product, a bag selling the product.

A. Yeah, a 3-D render of the bag.

Q. Would you explain that?

A. It's not an actual picture. Well, it is a representation of the product.

Q. Okay. So Cerveza Citrus did sell the

1 product in a bag that looked like the one here at  
2 Exhibit 8?

3 A. Can you -- can you rephrase that?

4 Q. There -- there's a picture or a 3-D  
5 rendering of a bag -- well, let's start with that.  
6 Is this a picture or a rendering of a bag?

7 A. Yes.

8 Q. And this bag, according to Exhibit 8, has  
9 10 pieces of Olé Chamoye in it; is that correct?

10 A. As far as it says on the -- on this page  
11 that you're -- on Exhibit 8, yeah.

12

13

14

15

16

17

18

19

20

21

22

23 BY MR. OWENS:

24 Q. Mr. Milan, is -- is this a picture of a  
25 bag?



1 A. It's a picture of our product. An early  
2 picture. It's of the Olé Chamoye product.

3 Q. Okay. Did Cerveza Citrus ever sell the  
4 product in a bag?

5 A. Um -- you know, I guess you mean bag being  
6 a plastic packet?

7 Q. Yes.

8 A. Yes.

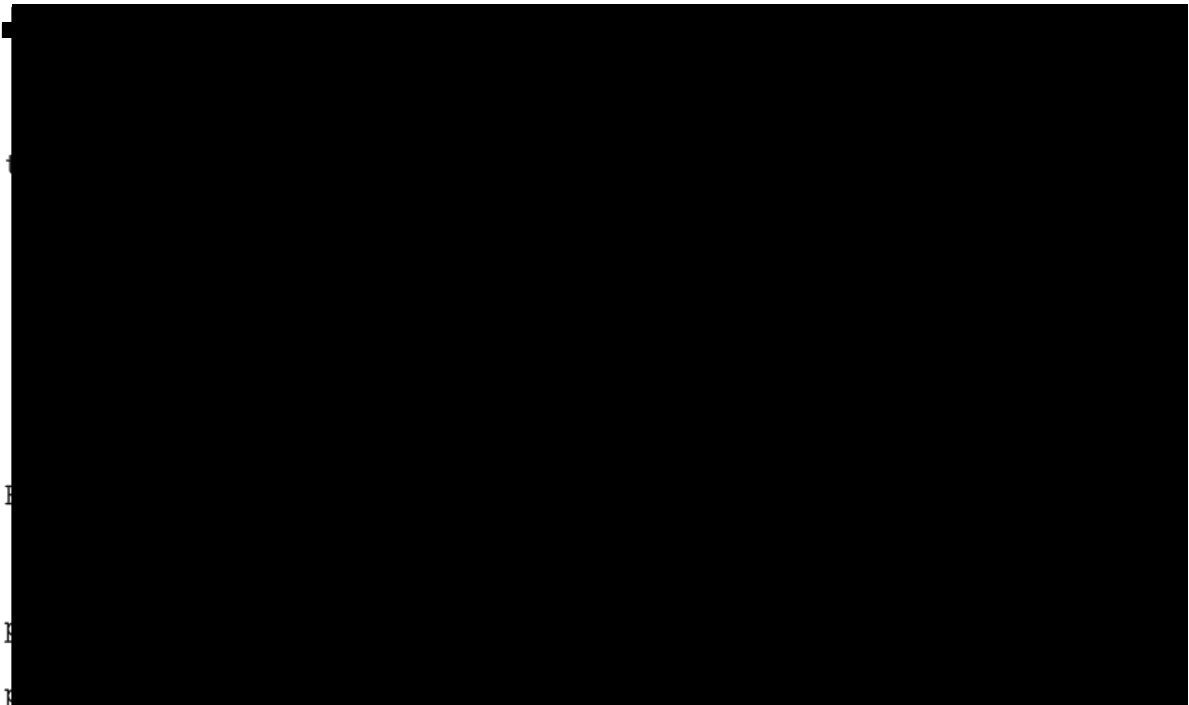
9 Q. Is this at Exhibit 8 a representation of  
10 that plastic package?

11 A. Yes.

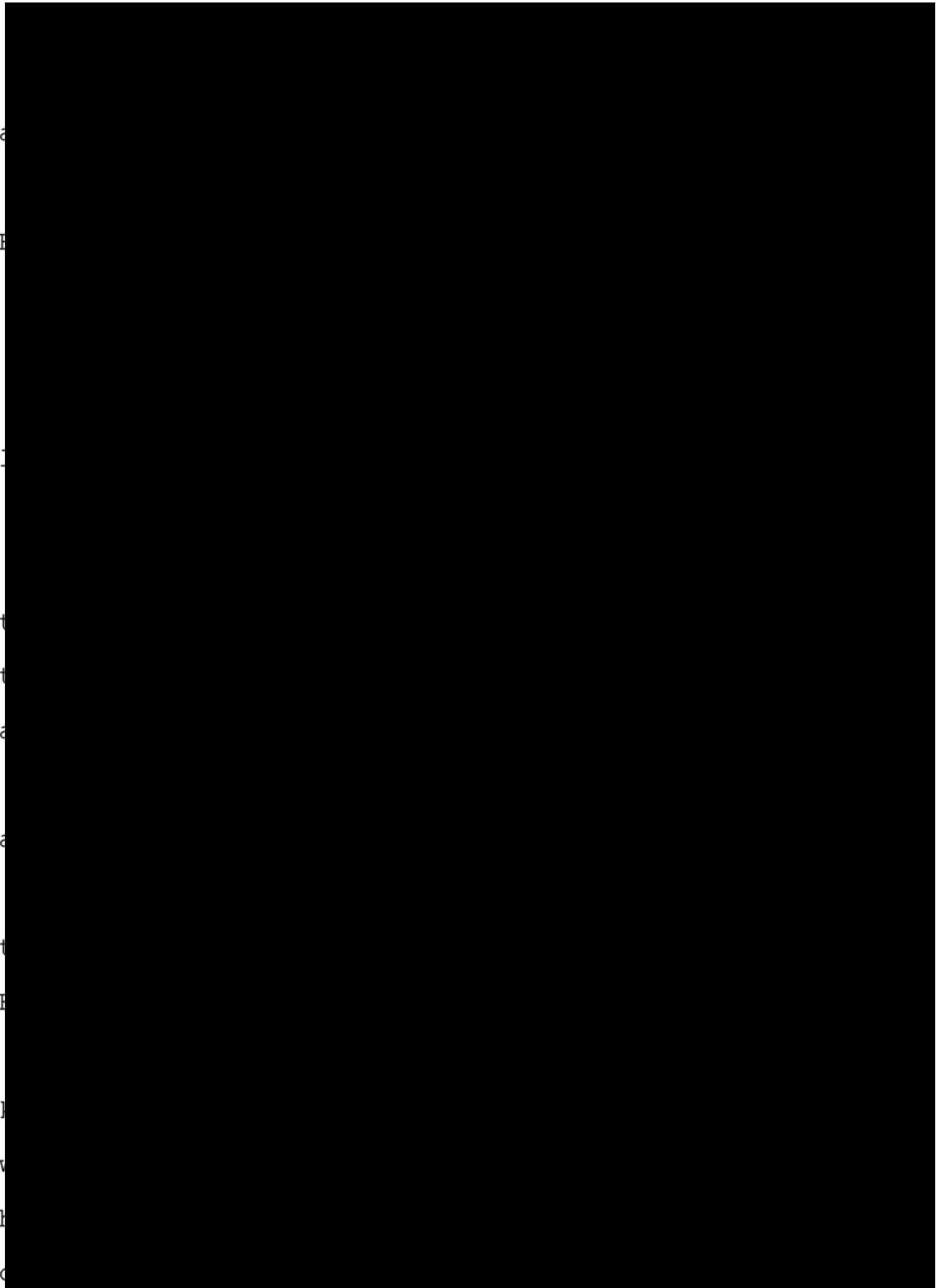
12 Q. And does Cerveza Citrus still sell the  
13 product in a plastic package like this one?

14 A. Yes.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



Q. Okay. In the first paragraph of the text

1 right under \$20, can you tell me what authentic  
2 Mexican means in that sentence?

3 A. It's like traditional, classical, old.  
4 This is what I refer to it -- think of it as.

5 Q. And the statement in that first sentence  
6 of text refers to the product as a condiment; is  
7 that correct?

8 A. Yes.

9 Q. And one compartment of the Olé Chamoye  
10 package is -- has a chamoy sauce in it; is that  
11 correct?

12 A. Yes.

13 Q. And what is a chamoy -- chamoy sauce?

14 A. Chamoy?

15 Q. Um-hum.

16 A. It's a combination of different flavors  
17 and spices. It's our product.

18 Q. Okay. And the other compartment has a  
19 chili lime seasoning in it; is that correct?

20 A. Yes.

21 Q. How do -- how do people use your product?  
22 Could you explain that?

23 A. It's used in a lot of different ways.

24 Q. What are some of the ways?

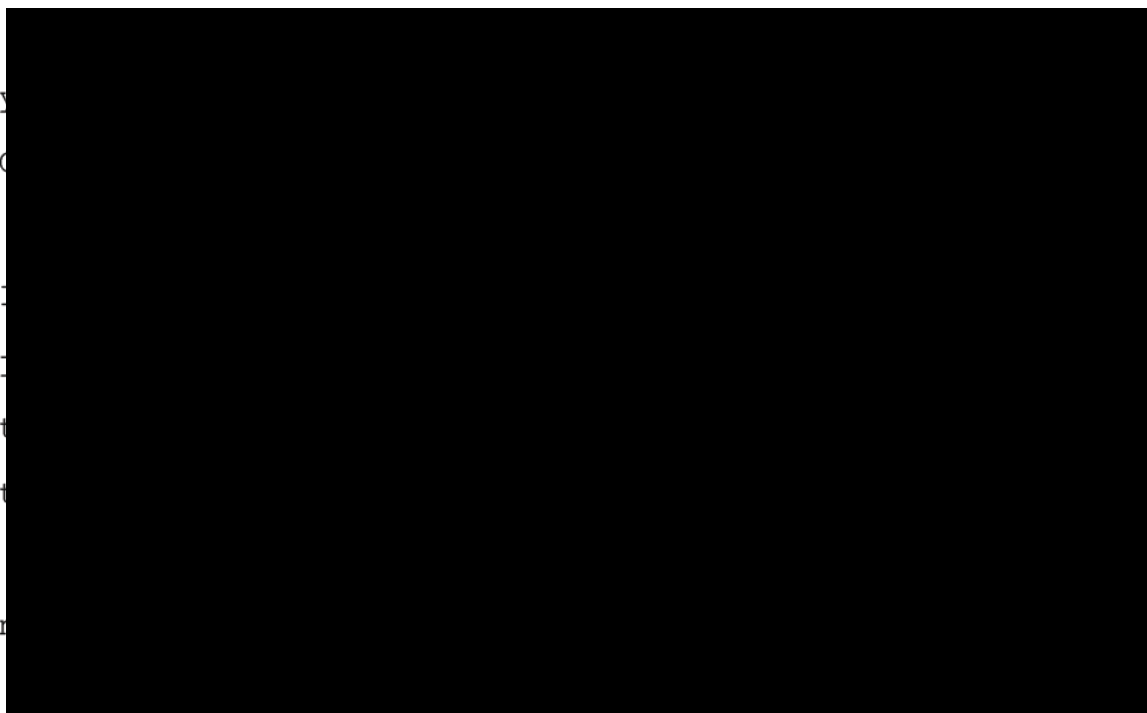
25 A. Generally you would rip the product in

1 half from the perforation point, and you would have  
2 both the chamoy and the dry spice. You have the  
3 liquid, and you have the dry.

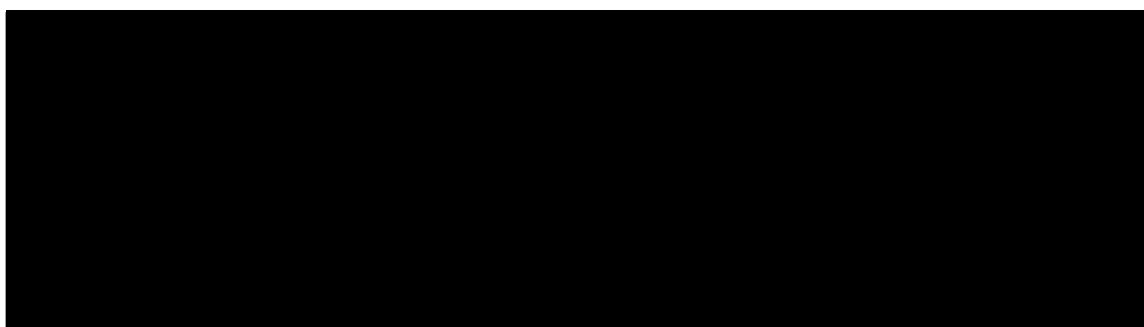
4 And you would coat the liquid in all sorts  
5 of different things. Like from beverages, I know  
6 of -- I know of kids that -- like grape soda.  
7 They'll literally dump the chamoy into grape soda,  
8 and they'll add the spice on a rim or they might  
9 not use the spice at all and consume, you know,  
10 whatever they put it on.

11 So in that example is the soda. I know  
12 people use it in popcorn. Um -- primarily it's the  
13 fruits, and beverages is kind of what I'm most -- I  
14 mean, what I use it for.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



Q. Now, the Notice of Opposition was filed against your registration in June of 2020. Did you ever see the Notice of Opposition?

A. I'm sure I did sometime.

Q. What was your understanding of what the opposition was about?

A. They were opposing our trademark that was approved by the Trademark Office.

Q. After the Notice of Opposition did you do a search then for Olé?

A. I don't -- I don't think so. I don't know.

Q. Did you ask anybody else to do a search for Olé?

A. No.

Q. The opposition was filed in June of 2020, and I understand from your interrogatory response number one that you began using in September of 2020.

Did you consider at all whether to start

1 using the mark -- let me rephrase that.

2           You began using in September of 2020,  
3 which is three months after the Notice of  
4 Opposition was filed. Were you concerned at all  
5 about using the mark after an opposition had been  
6 filed?

7           A.     No.

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



MR. OWENS: Kip, would you pull up  
Exhibit 5.

(Exhibit 5 is electronically published.)

MR. OWENS: Response number two.

(The technician complies.)

BY MR. OWENS:

Q. Do you see Cerveza Citrus's response to  
Interrogatory No. 2?

A. Yes.

Q. So 2(a) has a gross sales figure for the  
Olé Chamoye product as \$52,624 and change. Where  
did that figure come from?

A. From invoices, notes.

Q. Do you have an accounting software  
product?

A. Yes, it's also from.

Q. Also from?

A. We used that software, too, but we haven't  
always had it so.

Q. And at 2(a) it shows that the retail price  
per unit is 79 cents to 99 cents.

A. Right.

Q. Is that the price to the ultimate

1 consumer, the ultimate buyer, of the product?

2 A. Generally, yes. I don't have direct  
3 control over what the end user will get. I guess  
4 that's MSRP or suggested price.

5 Q. Okay. And how do you tell the -- who do  
6 you give the MSRP to?

7 A. To our distributors, the people who sell  
8 for us, or we sell them, and then they put it in  
9 other stores.

10 Q. And so at 2(b) there is a range of MSRPs  
11 between 2.97 and 4.99?

12 A. Right.

13 Q. And that is the suggested -- the  
14 manufacturer's suggested retail price for a  
15 single-serving package?

16 A. Right. Of the Dip'In.

17 Q. Okay. And 2(c) has an MSRP for the candy  
18 between 2.99 and 9.99; is that correct?

19 A. Yes.

20 Q. And why would there be such a wide range  
21 in the MSRP for the candy?

22 A. The location it's being sold at.

23 Q. Could you explain that?

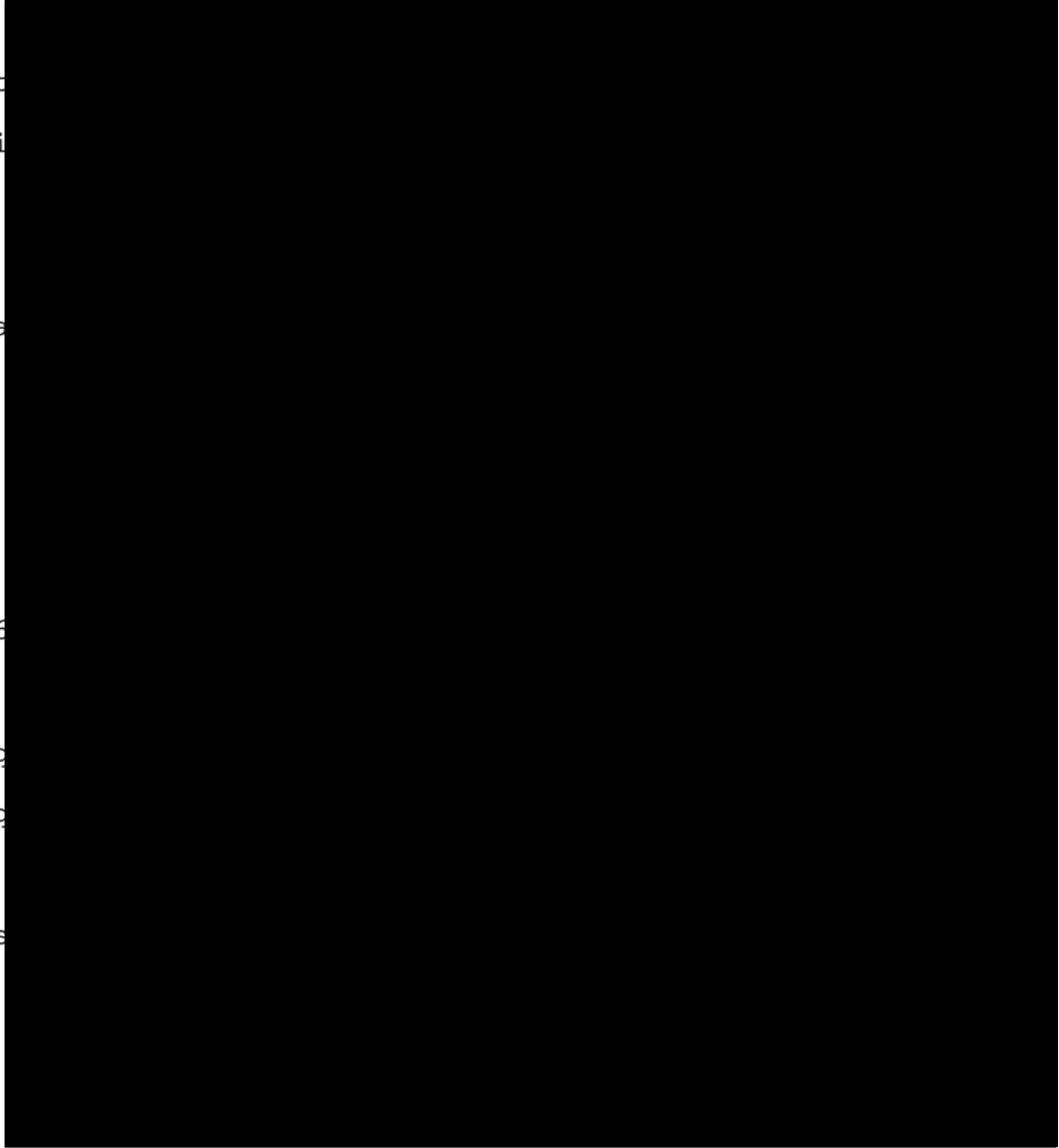
24 A. So you'll have grocery stores, retailers  
25 that have a smaller margin that they want to --



1 that they need versus a gas station, which may have  
2 up to a 50 percent margin.

3 So that's -- and that's for all the  
4 products that -- it ranges from it's being sold in  
5 a high-volume situation versus a lower volume. A  
6 grocery store versus a convenience store.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



**EXHIBIT 2 – EXHIBITS FROM 4.7.22  
DEPOSITION TRANSCRIPT OF RYAN  
MILAN ON WHICH OPPOSER RELIES**

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

---

In the Matter of Application Serial No. 88/646,951

Mark: OLÉ CHAMOYLE

Filing Date: 10/08/2019

|                          |   |                         |
|--------------------------|---|-------------------------|
| OLÉ MEXICAN FOODS, INC., | ) |                         |
|                          | ) |                         |
| Opposer,                 | ) |                         |
|                          | ) | Opposition No. 91256413 |
| v.                       | ) |                         |
|                          | ) |                         |
| CERVEZA CITRUS L.L.C.,   | ) |                         |
|                          | ) |                         |
| Applicant                | ) |                         |

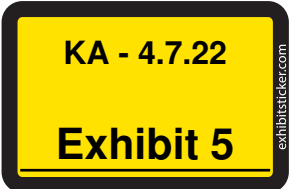
---

**APPLICANT’S RESPONSES TO OPPOSER’S  
FIRST SET OF INTERROGATORIES**

---

Applicant CERVEZA CITRUS L.L.C. (hereinafter, the “Applicant”) responds to the first request for admissions by Opposer OLÉ MEXICAN FOODS, INC. (the “Opposer”) as follows:

It should be noted that Applicant has not fully completed investigation of the facts of this case, has not fully completed discovery in this action, and has not completed preparation for trial. All of the answers contained herein are based only upon such information and documents as are presently available to and specifically known to Applicant, and disclose only those contentions which presently occur to Applicant. It is anticipated that further discovery, independent investigation, and legal research and analysis could supply additional facts, add meaning to the known facts, and perhaps establish entirely new factual conclusions and legal



contentions, all of which may lead to substantial additions to, changes in and variations from the contentions herein set forth. The following answers to Opposer's Interrogatories are given without prejudice to Applicant's right to produce evidence of any subsequently discovered fact or facts which this responding party may later recall or uncover. Applicant, accordingly, will supplement any and all answers herein as additional facts are ascertained, analysis is made, legal research is completed and contentions are made to the extent required by the Federal Rules of Civil Procedure.

**INTERROGATORY NO. 1:**

Identify each product Applicant has sold or intends to sell under OLÉ CHAMOYLE Mark, and, where applicable, state the date(s) each such product was first offered for sale.

**RESPONSE TO INTERROGATORY NO. 1:**

- a) Olé Chamoye - 09/17/2020
- b) Olé Chamoye Dip'In - 04/13/2021
- c) Olé Chamoye Candy - 09/27/2021

**INTERROGATORY NO. 2:**

State Applicant's annual dollar and unit volume of sales and retail price per unit for each of the products identified in response to Interrogatory No. 1.

**RESPONSE TO INTERROGATORY NO. 2:**

- a) Olé Chamoye - \$52,624.51; \$0.79-\$0.99
- b) Olé Chamoye Dip'In - \$40,180.12; \$2.97-\$4.99

c) Olé Chamoye Candy - \$31,680.00; \$2.99-\$9.99

**INTERROGATORY NO. 3:**

Describe the channels of trade (e.g., retail grocery stores or supermarkets, wholesale distributors, food-service distributors, warehouse sales to large or mass retailers, internet sales, and so on) through which each of Applicant's Goods are sold or will be sold.

**RESPONSE TO INTERROGATORY NO. 3:**

Retail grocery stores, supermarkets, wholesale distributors, food-service distributors, warehouse sales to large or mass retailers and internet sales.

**INTERROGATORY NO. 4:**

Identify the specific outlets through which each of Applicant's Goods are sold or will be sold.

**RESPONSE TO INTERROGATORY NO. 4:**

WinCo Foods, United Market, State Foods, 7-11, AmPm, Shell, Chevron, Circle K and Sinclair.

**INTERROGATORY NO. 5:**

Identify all media in which each of Applicant's Goods have been or will be advertised or marketed.

**RESPONSE TO INTERROGATORY NO. 5:**

None to date. Undetermined for the future.

**INTERROGATORY NO. 6:**

State the amount expended on an annual basis to advertise or market each of Applicant's Goods

**RESPONSE TO INTERROGATORY NO. 6:**

None to date.

**INTERROGATORY NO. 7:**

Identify all person(s) or organization(s), past and present, responsible for advertising or marketing Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 7:**

Cerveza Citrus LLC, Kyle Bell and Ryan Milan.

**INTERROGATORY NO. 8:**

Identify the person(s) primarily responsible for selecting Applicant's OLÉ CHAMOYLE Mark.

**RESPONSE TO INTERROGATORY NO. 8:**

Kyle Bell and Ryan Milan.

**INTERROGATORY NO. 9:**

State whether a trademark or trade name search was conducted by or on the behalf of Applicant concerning Applicant's OLÉ CHAMOYLE Mark prior to the commencement of these proceedings. If the answer to this interrogatory is other than an unqualified negative:

- a. identify the person responsible for initiating each search;
- b. identify the person who conducted each search;
- c. state the date(s) of such search(es);
- d. identify all documents relating to or evidencing such search; and,
- e. identify all registered and common law trademarks, trade names, and corporate names uncovered in each such search.

**RESPONSE TO INTERROGATORY NO. 9:**

Applicant did not conduct a formal trademark search for “Olé Chamoylé”. Applicant has no records pertaining to or specific recognition of any trademark search for “Olé Chamoylé”, “Olé” or “Chamoylé” prior to the commencement of these proceedings.

**INTERROGATORY NO. 10:**

Identify all persons who participated in the collection of documents produced by Applicant in response to Opposer’s First and Second Request for Production of Documents to Applicant.

**RESPONSE TO INTERROGATORY NO. 10:**

Kyle Bell and Ryan Milan.

**INTERROGATORY NO. 11:**

Describe all instances of actual confusion known to Applicant between the source of Opposer’s OLÉ branded products and Applicant’s OLÉ CHAMOYLE branded products.

**RESPONSE TO INTERROGATORY NO. 11:**

Applicant has not been asked if Cerveza Citrus LLC or the OLÉ CHAMOYLE product line are associated with Opposer's OLÉ branded products. Applicant is not aware of any actual confusion with between Opposer's OLÉ branded products and Applicant's OLÉ CHAMOYLE.

**INTERROGATORY NO. 12:**

Is it Applicant's contention that the term OLÉ has the same appearance, sound, and meaning or connotation as the term OLE? If the answer to this Interrogatory is other than an unqualified affirmative, state each and every way the appearances, sounds, and meanings or connotations of the terms differ.

**RESPONSE TO INTERROGATORY NO. 12:**

It is Applicant's contention that the appearance is very similar and that the specific sound and meaning depend on the use of the terms and, as to trademarks, on the perception of the customer and, as a result, is unable to state an answer in the abstract. For instance, Kyle Bell has heard Applicant's mark "Olé Chamoye" pronounced in many different ways.

**INTERROGATORY NO. 13:**

Is it Applicant's contention that the term OLE in OLE SWEET SAVANNAH in U.S. Registration No. 6,320,996—the TESS record for which was attached as Exhibit 3 to the Ryan Declaration in support of Applicant's Brief in Opposition to Opposer's Motion for Summary Judgment herein (hereinafter, "the Ryan Declaration")—has the same sound and meaning or connotation as the term OLÉ? If the answer to this Interrogatory is other than an



unqualified affirmative, state each and every way the appearances, sounds, and meanings or connotations of the terms differ.

**RESPONSE TO INTERROGATORY NO. 13:**

It is Applicant's contention that the appearance is very similar. Applicant is not familiar of the sound, meaning or connotation of the mark OLE SWEET SAVANNAH that is intended or used by the Registrant of the subject mark or how the OLE in the mark is utilized by customers or others and, therefore, does not know if the sound, meaning or connotation is the same or not.

**INTERROGATORY NO. 14:**

Is it Applicant's contention that the term OLE in OLE YELLER in U.S. Registration No. 2,510,986 (the TESS record for which was attached to the Ryan Declaration) has the same sound and meaning or connotation as the term OLE? If the answer to this Interrogatory is other than an unqualified affirmative, state each and every way the appearances, sounds, and meanings or connotations of the terms differ.

**RESPONSE TO INTERROGATORY NO. 14:**

It is Applicant's contention that the appearance is very similar. Applicant is not familiar of the sound, meaning or connotation of the mark OLE YELLER that is intended or used by the Registrant of the subject mark or how the OLE in the mark is utilized by customers or others and, therefore, does not know if the sound, meaning or connotation is the same or not.

**INTERROGATORY NO. 15:**

Is it Applicant's contention that the term OLE in OLE RAY'S in U.S. Registration No. 2,514,634 (the TESS record for which was attached to the Ryan Declaration) has the same sound and meaning or connotation as the term OLE? If the answer to this Interrogatory is other than an unqualified affirmative, state each and every way the appearances, sounds, and meanings or connotations of the terms differ.

**RESPONSE TO INTERROGATORY NO. 15:**

It is Applicant's contention that the appearance is very similar. Applicant is not familiar of the sound, meaning or connotation of the mark OLE RAY'S that is intended or used by the Registrant of the subject mark or how the OLE in the mark is utilized by customers or others and, therefore, does not know if the sound, meaning or connotation is the same or not.

**INTERROGATORY NO. 16:**

Is it Applicant's contention that the term OLE in OLE' SOUTHERN SECRET POTS-ABILITIES in U.S. Registration No. 5,096,298 (the TESS record for which was attached to the Ryan Declaration) has the same sound and meaning or connotation as the term OLE? If the answer to this Interrogatory is other than an unqualified affirmative, state each and every way the appearances, sounds, and meanings or connotations of the terms differ.

**RESPONSE TO INTERROGATORY NO. 16:**

It is Applicant's contention that the appearance is very similar. Applicant is not familiar of the sound, meaning or connotation of the mark OLE' SOUTHERN SECRET POTS-ABILITIES that is intended or used by the Registrant of the subject mark or how the OLE in the mark is utilized by customers or others and, therefore, does not know if the sound,

meaning or connotation is the same or not.

**INTERROGATORY NO. 17:**

Is it Applicant's contention that the term OLE in OLE PODNER BAR-B-QUE RUB in U.S. Registration No. 4,358,228 (the TESS record for which was attached was attached to the Ryan Declaration) has the same sound and meaning or connotation as the term OLÉ? If the answer to this Interrogatory is other than an unqualified affirmative, state each and every way the appearances, sounds, and meanings or connotations of the terms differ.

**RESPONSE TO INTERROGATORY NO. 17:**

It is Applicant's contention that the appearance is very similar. Applicant is not familiar of the sound, meaning or connotation of the mark OLE PODNER BAR-B-QUE RUB that is intended or used by the Registrant of the subject mark or how the OLE in the mark is utilized by customers or others and, therefore, does not know if the sound, meaning or connotation is the same or not.

**INTERROGATORY NO. 18:**

Is it Applicant's contention that the term OLE in OLE & STEEN in U.S. Registration No. 5,398,786 (the TESS record for which was attached was attached to the Ryan Declaration) has the same sound and meaning or connotation as the term OLÉ? If the answer to this Interrogatory is other than an unqualified affirmative, state each and every way the appearances, sounds, and meanings or connotations of the terms differ.

**RESPONSE TO INTERROGATORY NO. 18:**

It is Applicant's contention that the appearance is very similar. Applicant is not familiar of the sound, meaning or connotation of the mark OLE & STEEN that is intended or used by the Registrant of the subject mark or how the OLE in the mark is utilized by customers or others and, therefore, does not know if the sound, meaning or connotation is the same or not.

Dated: 03/28/2022

Respectfully submitted,

/Richard A. Ryan/

Richard A. Ryan, Esq. (PTO Reg. #39,014)  
Attorney for Applicant, Cerveza Citrus L.L.C.

Richard A. Ryan  
Attorney at Law  
516 W. Shaw Avenue, Suite 200  
Fresno, CA 93704  
Phone: (559) 447-1837  
Fax: (559) 447-1042  
Email: richard@fresnopatentlaw.com

**CERTIFICATE OF SERVICE**

I hereby certify that on March 28, 2022, a true and correct copy of the foregoing Applicant's Responses to Opposer's First Set of Interrogatories were served on Opposer by emailing a copy to Opposer's attorney of record at:

Paul S. Owens, Esq.  
Email: psowens@bellsouth.net

/Richard A. Ryan/  
Richard A. Ryan, Esq. (PTO Reg. #39,014)  
Attorney for Applicant

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

In the Matter of Application Serial No. 88/646,951

Mark: OLÉ CHAMOYLE

Filing Date: 10/08/2019

OLÉ MEXICAN FOODS, INC.,

Opposer,

v.

CERVEZA CITRUS L.L.C.,

Applicant

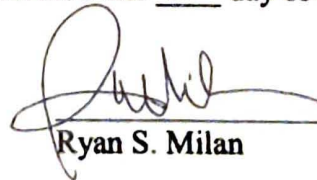
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Opposition No. 91256413

**APPLICANT'S RESPONSES TO OPPOSER'S  
FIRST SET OF INTERROGATORIES - VERIFICATION**

I, Ryan S. Milan, am a member of Cerveza Citrus L.L.C. (Applicant), which is a party to the above-identified Opposition. I have read Opposer's First Set of Interrogatories, and know the contents thereof, and the answers set forth in Applicant's Responses to Opposer's First Set of Interrogatories are true and correct as to my knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct, and that this verification is executed this 6<sup>th</sup> day of April, 2022.

  
Ryan S. Milan

KA - 4.7.22

Exhibit 5a

exhibit5a.com



DELICIOSO!



# Ole Chamoye



Rico Rico

WITH  
SPICE

## CHAMOY SAUCE

Perfect for  
beverages &  
fruit snacks

SAUCE  
.067 OZ.  
(20 mL)

SPICES  
0.07 OZ.

KA - 4.7.22

Exhibit 6

exhibitstickers.com

LOT 100320  
EXP072021

We are the Lime Bros.  
Try the first locally made

**To - Go OLÉ CHAMOYLE.**  
Delicious salty, sweet, sour savory Chamoy sauce  
topped with our spicy seasoning.

Enjoy our Ole Chamoye Rico Rico.

CHAMOY SAUCE

SPICE

PRICE  
INGR LOT # 315

Chili peppers, salt,  
Citric acid, fully drained  
lime, silicon  
dioxide, egg  
caking, No artificial  
colors or flavors added.

CHAMOY SAUCE

INGREDIENTS:

Water, iodized salt,  
high fructose corn  
syrup, citric acid,  
xanthan gum, red  
peppers, sodium  
citrate, modified corn  
starch, acetic acid,  
sodium benzoate  
(preservative), caramel  
color and FD&C  
red #40.

MANUFACTURED  
AND DISTRIBUTED BY:

CERVEZA CITRUS, LLC.  
VISALIA, CA 93292

**Nutrition Facts** Servings: 1, Serv. size: 4 teaspoon (20mL),  
Amount per serving: **Calories 0**, Total Fat 0g (0% DV), Sodium 320mg (16% DV),  
Total Carb. 0g (0% DV), Sugars 0g, Protein 0g. Not a significant source of cholesterol,  
dietary fiber, added sugars, vitamin D, calcium, iron and potassium.

**Nutrition Facts** Servings: 1, Serv. size: 1/2 teaspoon (2g),  
Amount per serving: **Calories 0**, Total Fat 0g (0% DV), Sodium 320mg (16% DV),  
Total Carb. 0g (0% DV), Sugars 0g, Protein 0g. Not a significant source of cholesterol,  
dietary fiber, added sugars, vitamin D, calcium, iron and potassium.



igned by: ronhansen.com





## Olé Chamoye 10 pcs

★★★★★ (0 customer reviews) 1 sold

**\$20.00**

America's first authentic Mexican sweet and spicy Chamoy condiment COMBINATION. Made with chili powder and fresh lime juice.

Combined with expertly blended spices and seasonings of lime, mild chili peppers and sea salt. A delicioso combination to add to everyone's favorite chicken, grilled fish, veggies, beverages and fresh fruit.

< 1 >

ADD TO CART

BUY NOW

WISHLIST

COMPARE

Category: Sauce

Share:

### DESCRIPTION

REVIEWS (0)

America's first authentic Mexican sweet and spicy Chamoy condiment COMBINATION. Made with chili powder and fresh lime juice.

Combined with expertly blended spices and seasonings of lime, mild chili peppers and sea salt. A delicioso combination to add to everyone's favorite chicken, grilled fish, veggies, beverages and fresh fruit.

### RELATED PRODUCTS

KA - 4.7.22

Exhibit 8

exhibitsticker.com



Olé Chamoye 100 pcs



\$200.00



+1 661 709 0336

[contact@olechamoye.com](mailto:contact@olechamoye.com)



Copyright © 2020 Olé Chamoye. Development and optimization by [Luna K&C](#). All Rights Reserved.