

ESTTA Tracking number: **ESTTA1135970**

Filing date: **05/24/2021**

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

Proceeding	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	Other Motions/Submissions
Filer's Name	Paul S. Owens
Filer's email	psowens@bellsouth.net
Signature	/paul s. owens/
Date	05/24/2021
Attachments	Supplemental Reply Brief w-Exhibit--Opp. No. 91256413.pdf(480221 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: OLÉ CHAMOYLE

Filing date: October 8, 2019

OLÉ MEXICAN FOODS, INC.,

Opposer,

v.

Opposition No. 91256413

CERVEZA CITRUS L.L.C.,

Applicant.

-----X

**OPPOSER'S SUPPLEMENTAL REPLY BRIEF IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT**

Opposer-Olé Mexican Foods, Inc. files this Supplemental Reply Brief to make of record in connection with its summary judgment motion herein the Petition for Cancellation that Opposer filed today against Registration No. 5,788,151 for the mark OLÉ HOT'N FRUITY and Design for use with "sauces, namely, hot sauces." (A true and correct copy of the Petition for Cancellation and filing receipt is attached hereto as Exhibit 1.)

The sole purpose of this Supplemental Reply Brief is to supplement Opposer's response to Applicant's assertion that Opposer "has not petitioned to cancel any of [the third-party] registrations" listed in Applicant's Brief in Opposition to Opposer's Motion for Summary Judgment. *See* Applicant's Brief in Opposition, pp. 13, 17.

The within Supplemental Reply Brief is made within the applicable time period for reply briefs and does not exceed, when aggregated with Opposer's Reply Brief filed on May 21, 2021, the applicable page limit. *See* TBMP §§ 528.01 and 528.02.

Date: May 24, 2021

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 24th day of May, 2021, a true and correct copy of the foregoing Supplemental Reply Brief in Support of Opposer's Motion for Summary Judgment 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

Receipt

Your submission has been received by the USPTO.
The content of your submission is listed below.
You may print a copy of this receipt for your records.

ESTTA Tracking number: **ESTTA1135933**
Filing date: **05/24/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Ole Mexican Foods, Inc.		
Entity	Corporation	Citizenship	Georgia
Address	6585 CRESCENT DRIVE NORCROSS, GA 30071 UNITED STATES		

Correspondence Information	PAUL S. OWENS ATTORNEY OF RECORD PAUL OWENS & ASSOCIATES P.O. BOX 15310 ATLANTA, GA 30333 UNITED STATES Primary Email: psowens@bellsouth.net 404-370-9800		
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Registration Subject to Cancellation

Registration No.	5788151	Registration date	06/25/2019
Registrant	Especies Exoticas Esxot Cia. Ltda. 23 DE ABRIL OE12-372 Y 25 DE NOVIEMBRE LLANO GRANDE, QUITO ECUADOR		

Goods/Services Subject to Cancellation

Class 030. First Use: 1998/03/31 First Use In Commerce: 2014/05/31 All goods and services in the class are subject to cancellation, namely: sauces, namely, hot sauces			
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2740014	Application Date	08/06/2002
Registration Date	07/22/2003	Foreign Priority Date	NONE
Word Mark	OLÉ		
Design Mark	76438776#TMSN.png		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1996/02/28 First Use In Commerce: 1996/02/28 Tortillas Tortilla chips		

U.S. Registration No.	3223608	Application Date	11/02/2004
Registration Date	04/03/2007	Foreign Priority Date	NONE
Word Mark	OLÉ		
Design Mark	76619200#TMSN.png		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 Mexican style food products, namely, chortzo, queso and cheese dips, [canned peppers, dried peppers,] chicharrones [and yogurt-based beverages] Class 030. First use: First Use: 1988/05/00 First Use In Commerce: 1988/05/00 Mexican style food products, namely, tortillas, tostadas, [gorditas, sopes,] tortilla chips, Mexican pastries, Mexican snack foods, namely, corn chips, salsas, [mole, dried corn husks, frijoles, pasta, Mexican candies, tamales, taquitos, and herbal teas]		

U.S. Registration No.	4899762	Application Date	03/19/2008
Registration Date	02/16/2016	Foreign Priority Date	NONE
Word Mark	OLÉ MEXICAN FOODS EST. 1988		
Design Mark	77426608#TMSN.png		
Description of Mark	The mark consists of a panel shaped design and a cross-shaped background design that includes a bull; the left panel is green, the center panel is white and the right panel is red, with the words "OLÉ MEXICAN FOODS" superimposed on the panel; the cross-shaped background design is yellow, brown and gold and the bull and wording are black.		
Goods/Services	Class 030. First use: First Use: 2008/01/00 First Use In Commerce: 2008/01/00 tortillas		

U.S. Registration No.	4292655	Application Date	01/29/2010
Registration Date	02/19/2013	Foreign Priority Date	NONE
Word Mark	OLÉ MEXICAN FOODS EST. 1988		
Design Mark	77924000#TMSN.png		

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<p>Description of Mark</p> <p>The mark consists of a panel shaped design and a cross-shaped background design that includes a bull; the left panel is green, the center panel is white and the right panel is red, with the words "OLE MEXICAN FOODS" superimposed on the panel; the cross-shaped background design is yellow, brown and gold and the bull and wording are black.</p>	<p>Goods/Services</p> <p>Class 029, First use: 2011/05/00 First Use in Commerce: 2011/05/00 Cheese; Chonzo</p>
<p>Attachments</p> <p>76438776#TMSN.png (bytes) 76619200#TMSN.png (bytes) 77426608#TMSN.png (bytes) 77924000#TMSN.png (bytes) Petition for Cancellation and Exhs. 1-4.pdf(435147 bytes)</p>	<p>Signature</p> <p>/paul s. owens/</p> <p>Name</p> <p>Paul S. Owens</p> <p>Date</p> <p>05/24/2021</p>

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

-----X
In the Matter of Trademark Registration
No.: 5,788,151

For the Mark: OLÉ HOT'N FRUITY
and Design

Registration date: June 25, 2019

OLÉ MEXICAN FOODS, INC.,

Petitioner,

v.

Cancellation No. _____

ESPECIES EXOTICAS ESXOT CIA.
LTDA.,

Registrant.

-----X

PETITION FOR CANCELLATION

Petitioner, Olé Mexican Foods, Inc., believes that it will be damaged by registration of the mark shown in Registration No. 5,788,151 in International Class 30 for use with “sauces, namely, hot sauces” and hereby opposes the same.

1. Petitioner for many years and since long prior to any date of first use upon which Registrant can rely, has adopted and continuously the term OLÉ as a trademark, house mark, and trade name in connection with its food products.

2. Petitioner is the owner of the following registrations that are duly and validly registered on the Principal Register:

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods</u>
OLÉ	2,740,014	Tortillas; tortilla chips.

OLÉ 3,223,608 Mexican style food products, namely, chorizo, queso and cheese dips, and chicharrones in Class 29; Mexican style food products, namely, tortillas, tostadas, tortilla chips, Mexican pastries, Mexican snack foods, namely, corn chips, and salsas in Class 30.



4,899,762 tortillas.



4,292,655 cheese and chorizo.

Title and status copies of these registrations are attached hereto as Exhibits 1, 2, 3, and 4, respectively.

3. Registration Nos. 2,740,014, 3,223,608, and 4,292,655 identified in paragraph 1 have become incontestable under 15 U.S.C. § 1065. Consequently, each of these registrations identified above in paragraph 1 and the exhibits attached hereto constitute conclusive evidence of the validity of the registered mark, of the registration of the mark, of Petitioner's ownership of the mark, and of Petitioner's exclusive right to use the registered mark in commerce for the goods identified in the registrations. A Section 8 and 15 affidavit was filed in connection with Registration No. 4,899,762 identified above in paragraph 1 on March 8, 2021 and is awaiting action by the USPTO. This registration will be accorded the same presumptions as the other three registrations identified in paragraph 1 above once the Section 15 affidavit has been acknowledged.

4.. Petitioner's rights in the OLÉ mark were established long prior to the issuance date of the above-captioned registration (i.e., June 25, 2019) or any other date Registrant may rely on for determining priority.

5. Petitioner has sold the goods listed in its aforesaid registrations under the OLÉ mark throughout the United States. By virtue of its sales and advertising of such goods, Petitioner has developed an exceedingly valuable goodwill throughout the United States with respect to its OLÉ mark.

6. As a result of its aforementioned use of its OLÉ mark, Petitioner's OLÉ mark possesses a high degree of distinctiveness and is well known and recognized as identifying products which have their source of origin solely with Petitioner, and as distinguishing such goods from the same or similar goods of others.

7. The Registrant's registered mark so resembles Petitioner's OLÉ mark, and the goods in connection with which the parties' marks are used are so closely related and identical in part, that use of the registered mark is likely to cause confusion, or to cause mistake, or to deceive in violation of 15 U.S.C. § 1052(d).

8. For the reasons set out above, Registrant's continued ownership of Registration No. 5,788,151 will damage Petitioner in violation of Petitioner's established rights in the OLÉ mark.

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained in its favor and that Registration No. 5,788,151 for the mark OLÉ HOT'N FRUITY and Design be cancelled, and for such other and further relief as to the Board seems just.

Dated: May 24, 2021

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 ELECTRONIC FILING

I hereby certify that the above Petition for Cancellation by Olé Mexican Foods, Inc. to cancel Registration No. 5,788,151 is being electronically filed with the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals ("ESTTA") on Monday, May 24, 2021.

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

Exhibit 1

For assistance with TSDR, email teas@uspto.gov and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

[STATUS](#) [DOCUMENTS](#) [MAINTENANCE](#)

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Mark: OLÉ

OLÉ

US Serial Number: 76438776

Application Filing Date: Aug. 06, 2002

US Registration Number: 2740014

Registration Date: Jul. 22, 2003

Register: Principal

Mark Type: Trademark

TM5 Common Status

LIVE/REGISTRATION/Issued and Active

Descriptor:



The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Aug. 06, 2013

Publication Date: Apr. 29, 2003

Mark Information

Mark Literal Elements: OLÉ

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "DELI"

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: Tortillas Tortilla chips

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 28, 1996

Use in Commerce: Feb. 28, 1996

Basis Information (Case Level)

[Privacy](#) - [Terms](#)

Filed Use: Yes	Currently Use: Yes
Filed ITU: No	Currently ITU: No
Filed 44D: No	Currently 44E: No
Filed 44E: No	Currently 66A: No
Filed 66A: No	Currently No Basis: No
Filed No Basis: No	

Current Owner(s) Information

Owner Name: Ole Mexican Foods, Inc.

Owner Address: 6585 Crescent Drive
Norcross, GEORGIA UNITED STATES 30071

Legal Entity Type: CORPORATION **State or Country Where Organized:** GEORGIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: PAUL S OWENS

Attorney Primary Email Address: psowens@bellsouth.net **Attorney Email Authorized:** Yes

Correspondent

Correspondent Name/Address: PAUL S OWENS
Paul Owens & Associates
P.O. Box 15310
Atlanta, GEORGIA UNITED STATES 30333

Phone: 404-370-9800 **Fax:** 404-370-9801

Correspondent e-mail: psowens@bellsouth.net **Correspondent e-mail Authorized:** Yes

Domestic Representative

Domestic Representative Name: PAUL S OWENS

Prosecution History

Date	Description	Proceeding Number
Aug. 06, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Aug. 06, 2013	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	68502
Aug. 06, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	68502
Aug. 06, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	68502
Jul. 22, 2013	TEAS SECTION 8 & 9 RECEIVED	
Jan. 27, 2009	CASE FILE IN TICRS	
Sep. 26, 2008	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	69934
Sep. 18, 2008	TEAS SECTION 8 & 15 RECEIVED	
Sep. 15, 2008	AMENDMENT UNDER SECTION 7 – PROCESSED	

Sep. 03, 2008	ASSIGNED TO PARALEGAL	69934
Aug. 08, 2008	TEAS SECTION 7 REQUEST RECEIVED	
Aug. 30, 2006	REVIEW OF CORRESPONDENCE COMPLETE	59315
Jul. 31, 2003	PAPER RECEIVED	
Jul. 25, 2003	PAPER RECEIVED	
Jul. 22, 2003	REGISTERED-PRINCIPAL REGISTER	
Apr. 29, 2003	PUBLISHED FOR OPPOSITION	
Apr. 09, 2003	NOTICE OF PUBLICATION	
Jan. 03, 2003	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 27, 2002	EXAMINER'S AMENDMENT MAILED	
Dec. 20, 2002	ASSIGNED TO EXAMINER	76729
Nov. 22, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Nov. 22, 2002	PAPER RECEIVED	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Aug. 06, 2013

Assignment Abstract Of Title Information - [Click to Load](#)

Proceedings - [Click to Load](#)

Exhibit 2

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Mark: OLÉ

OLÉ

US Serial Number: 76619200

Application Filing Date: Nov. 02, 2004

US Registration Number: 3223608

Registration Date: Apr. 03, 2007

Register: Principal

Mark Type: Trademark

TM5 Common Status

LIVE/REGISTRATION/Issued and Active

Descriptor:



The trademark application has been registered with the Office.

Status: A Section 15 declaration has been acknowledged.

Status Date: May 13, 2017

Publication Date: Jul. 12, 2005

Mark Information

Mark Literal Elements: OLÉ

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: [2740014](#), [2808204](#)

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: Mexican style food products, namely, chorizo, queso and cheese dips, [canned peppers, dried peppers,] chicharrón based beverages]

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

[Privacy](#) - [Terms](#)

First Use: Jan. 1996	Use in Commerce: Jan. 1996
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For: Mexican style food products, namely, tortillas, tostadas, [gorditas, sopes,] tortilla chips, Mexican pastries, Mexican corn chips, salsas, [mole, dried corn husks, frijoles, pasta, Mexican candies, tamales, taquitos, and herbal teas]

International Class(es): 030 - Primary Class	U.S Class(es): 046
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Class Status: ACTIVE

Basis: 1(a)

First Use: May 1988	Use in Commerce: May 1988
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Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes
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Filed ITU: No	Currently ITU: No
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Filed 44D: No	Currently 44E: No
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Filed 44E: No	Currently 66A: No
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Filed 66A: No	Currently No Basis: No
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Filed No Basis: No

Current Owner(s) Information

Owner Name: Olé Mexican Foods, Inc.

Owner Address: 6585 Crescent Drive
Norcross, GEORGIA UNITED STATES 30071

Legal Entity Type: CORPORATION	State or Country Where Organized: GEORGIA
---------------------------------------	--

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Paul S. Owens

Attorney Primary Email Address: psowens@bellsouth.net

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Paul S. Owens
PAUL OWENS & ASSOCIATES
PO BOX 15310
ATLANTA, GEORGIA UNITED STATES 30333-0310

Phone: (404) 370-9800	Fax: (404) 370-9801
------------------------------	----------------------------

Correspondent e-mail: psowens@bellsouth.net

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 14, 2017	SEC. 15 ACKNOWLEDGEMENT - E-MAILED	

May 13, 2017	REGISTERED - SEC. 15 ACKNOWLEDGED	67657
May 13, 2017	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67657
Feb. 06, 2017	TEAS SECTION 15 RECEIVED	
Jan. 03, 2017	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Jan. 03, 2017	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	70131
Jan. 03, 2017	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	70131
Jan. 03, 2017	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	70131
Oct. 21, 2016	TEAS SECTION 8 & 9 RECEIVED	
Oct. 18, 2016	PETITION TO DIRECTOR - DISMISSED	83176
Oct. 17, 2016	ASSIGNED TO PETITION STAFF	83176
Oct. 04, 2016	REINSTATED	67657
Jul. 26, 2016	TEAS PETITION TO DIRECTOR RECEIVED	1111
Apr. 03, 2016	COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED	
Mar. 21, 2016	TTAB RELEASE CASE TO TRADEMARKS	48698
Mar. 21, 2016	CANCELLATION TERMINATED NO. 999999	48698
Feb. 05, 2016	CANCELLED SECTION 18-PARTIAL	48698
Sep. 10, 2015	CANCELLATION GRANTED NO. 999999	48698
Jul. 31, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 - E-MAILED	
Jul. 31, 2012	REGISTERED - SEC. 8 (6-YR) ACCEPTED	74886
Jul. 31, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	74886
Jul. 15, 2012	TEAS SECTION 8 RECEIVED	
Jan. 07, 2008	CANCELLATION INSTITUTED NO. 999999	48698
Aug. 30, 2007	OPPOSITION DISMISSED NO. 999999	166228
Apr. 03, 2007	REGISTERED-PRINCIPAL REGISTER	
Jan. 03, 2006	OPPOSITION DISMISSED NO. 999999	166228
Aug. 15, 2005	OPPOSITION INSTITUTED NO. 999999	166228
Aug. 11, 2005	OPPOSITION PAPERS RECEIVED AT TTAB	
Jul. 12, 2005	PUBLISHED FOR OPPOSITION	
Jun. 22, 2005	NOTICE OF PUBLICATION	
Apr. 08, 2005	LAW OFFICE PUBLICATION REVIEW COMPLETED	76243
Apr. 01, 2005	ASSIGNED TO LIE	76243
Mar. 28, 2005	EXAMINER'S AMENDMENT MAILED	
Mar. 26, 2005	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 26, 2005	EXAMINERS AMENDMENT -WRITTEN	73708
Mar. 26, 2005	ASSIGNED TO EXAMINER	73708
Nov. 17, 2004	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 105

Date in Location: May 13, 2017

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[Assignment Abstract Of Title Information - Click to Load](#)

[Proceedings - Click to Load](#)

Exhibit 3

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Mark: OLÉ MEXICAN FOODS EST. 1988



US Serial Number: 77426608

Application Filing Date: Mar. 19, 2008

US Registration Number: 4899762

Registration Date: Feb. 16, 2016

Register: Principal

Mark Type: Trademark

TM5 Common Status

LIVE/REGISTRATION/Issued and Active

Descriptor:



The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Feb. 16, 2016

Publication Date: Feb. 10, 2009

Mark Information

Mark Literal Elements: OLÉ MEXICAN FOODS EST. 1988

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of a panel shaped design and a cross-shaped background design that includes a bull; the left panel is green, the center panel is white and the right panel is red, with the words "OLÉ MEXICAN FOODS" superimposed on the panel. The background design is yellow, brown and gold and the bull and wording are black.

Color Drawing: Yes

Color(s) Claimed: The color(s) red, white, green, yellow, gold, brown and black is/are claimed as a feature of the mark.

Disclaimer: "MEXICAN FOODS" AND "EST. 1988"

Design Search Code(s): 03.07.01 - Steers; Oxen, cows, calves, bulls; Cattle
 03.07.24 - Stylized bovines, deer, antelopes, goats, sheep, pigs, cows, bulls, buffalo, moose
 24.09.25 - Flags, signal; Bunting (flags); Other flags
 24.13.02 - Cross, Greek (equal sides); Greek cross (equal sized lines)
 26.03.21 - Ovals that are completely or partially shaded

Related Properties Information

[Privacy](#) - [Terms](#)

Claimed Ownership of US [2969695](#), [3061751](#)

Registrations:

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: tortillas

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 2008

Use in Commerce: Jan. 2008

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Olé Mexican Foods, Inc.

Owner Address: 6585 Crescent Drive
Norcross, GEORGIA UNITED STATES 30071

Legal Entity Type: CORPORATION

State or Country Where Organized: GEORGIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Paul S. Owens

Attorney Primary Email Address: psowens@bellsouth.net

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Paul S. Owens
PAUL OWENS & ASSOCIATES
PO BOX 15310
ATLANTA, GEORGIA UNITED STATES 30333-0310

Phone: 404-370-9800

Correspondent e-mail: psowens@bellsouth.net

Correspondent e-mail Authorized: Yes

[Privacy - Terms](#)

Domestic Representative - Not Found**Prosecution History**

Date	Description	Proceeding Number
Mar. 08, 2021	TEAS SECTION 8 & 15 RECEIVED	
Feb. 16, 2021	COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED	
Feb. 16, 2016	REGISTERED-PRINCIPAL REGISTER	
Jan. 06, 2016	TTAB RELEASE CASE TO TRADEMARKS	189001
Jan. 06, 2016	OPPOSITION TERMINATED NO. 999999	189001
Sep. 10, 2015	OPPOSITION SUSTAINED NO. 999999	189001
Feb. 25, 2009	OPPOSITION INSTITUTED NO. 999999	189001
Feb. 25, 2009	OPPOSITION PAPERS RECEIVED AT TTAB	
Feb. 10, 2009	PUBLISHED FOR OPPOSITION	
Jan. 21, 2009	NOTICE OF PUBLICATION	
Jan. 08, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	74215
Jan. 08, 2009	ASSIGNED TO LIE	74215
Dec. 23, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 23, 2008	EXAMINER'S AMENDMENT ENTERED	88888
Dec. 23, 2008	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Dec. 23, 2008	EXAMINERS AMENDMENT E-MAILED	6328
Dec. 23, 2008	EXAMINERS AMENDMENT -WRITTEN	78478
Jul. 02, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jul. 02, 2008	NON-FINAL ACTION E-MAILED	6325
Jul. 02, 2008	NON-FINAL ACTION WRITTEN	78478
Jun. 24, 2008	ASSIGNED TO EXAMINER	78478
Mar. 26, 2008	NOTICE OF DESIGN SEARCH CODE MAILED	
Mar. 25, 2008	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information**TM Staff Information - None****File Location**

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 16, 2016

Assignment Abstract Of Title Information - Click to Load**Proceedings - Click to Load**

Exhibit 4

For assistance with TSDR, email teas@uspto.gov and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

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Mark: OLÉ MEXICAN FOODS EST. 1988



US Serial Number: 77924000

Application Filing Date: Jan. 29, 2010

US Registration Number: 4292655

Registration Date: Feb. 19, 2013

Filed as TEAS Plus: Yes

Currently TEAS Plus: No

Register: Principal

Mark Type: Trademark

TM5 Common Status

LIVE/REGISTRATION/Issued and Active

Descriptor:



The trademark application has been registered with the Office.

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Jun. 07, 2018

Publication Date: Mar. 15, 2011

Notice of Allowance Date: May 10, 2011

Mark Information

Mark Literal Elements: OLÉ MEXICAN FOODS EST. 1988

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of a panel shaped design and a cross-shaped background design that includes a bull; the left panel is white and the right panel is red, with the words "OLÉ MEXICAN FOODS" superimposed on the panel; the background design is yellow, brown and gold and the bull and wording are black.

Color Drawing: Yes

Color(s) Claimed: The color(s) red, white, green, yellow, gold, brown and black is/are claimed as a feature of the mark.

Disclaimer: "MEXICAN FOODS" AND "EST. 1988"

Translation: The English translation of "OLÉ" in the mark is BRAVO.

Design Search Code(s): 03.07.01 - Steers; Oxen, cows, calves, bulls; Cattle
24.13.25 - Cross, Maltese; Other crosses, including ankh, Maltese; Cross, ankh
26.11.13 - Rectangles (exactly two rectangles); Two rectangles
26.11.16 - Rectangles touching or intersecting
26.11.21 - Rectangles that are completely or partially shaded

[Privacy](#) - [Terms](#)

26.17.13 - Overlined words or letters; Underlined words or letters; Letters or words underlined and/or overlined by or lines

Related Properties Information

Claimed Ownership of US [2932646](#), [3161729](#)
Registrations:

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: Cheese; Chorizo

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: May 2011

Use in Commerce: May 2011

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Olé Mexican Foods, Inc.

Owner Address: 6585 Crescent Drive
Norcross, GEORGIA UNITED STATES 30071

Legal Entity Type: CORPORATION

**State or Country Where
Organized:** GEORGIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Paul S. Owens, Esq.

**Attorney Primary Email
Address:** psowens@bellsouth.net

Attorney Email Authorized: No

Correspondent

Correspondent Name/Address: PAUL S. OWENS, ESQ.

PAUL OWENS & ASSOCIATES
PO BOX 15310

ATLANTA, GEORGIA UNITED STATES 30333-0310

Phone: 404-370-9800

Correspondent e-mail: psowens@bellsouth.netCorrespondent e-mail Yes
Authorized:**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Jun. 07, 2018	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Jun. 07, 2018	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	76533
Jun. 07, 2018	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76533
May 24, 2018	TEAS SECTION 8 & 15 RECEIVED	
May 24, 2018	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Feb. 19, 2018	COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED	
Feb. 19, 2013	REGISTERED-PRINCIPAL REGISTER	
Jan. 16, 2013	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Jan. 15, 2013	LAW OFFICE REGISTRATION REVIEW COMPLETED	73787
Dec. 19, 2012	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Dec. 19, 2012	STATEMENT OF USE PROCESSING COMPLETE	66154
Dec. 04, 2012	USE AMENDMENT FILED	66154
Dec. 04, 2012	TEAS STATEMENT OF USE RECEIVED	
Nov. 15, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Nov. 14, 2012	EXTENSION 3 GRANTED	66154
Nov. 10, 2012	EXTENSION 3 FILED	66154
Nov. 12, 2012	TEAS EXTENSION RECEIVED	
May 30, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
May 29, 2012	EXTENSION 2 GRANTED	66154
May 07, 2012	EXTENSION 2 FILED	66154
May 07, 2012	TEAS EXTENSION RECEIVED	
Nov. 22, 2011	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Nov. 21, 2011	EXTENSION 1 GRANTED	66154
Nov. 10, 2011	EXTENSION 1 FILED	66154
Nov. 15, 2011	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66154
Nov. 10, 2011	TEAS EXTENSION RECEIVED	
May 10, 2011	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 15, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Mar. 15, 2011	PUBLISHED FOR OPPOSITION	
Feb. 04, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	73787
Feb. 03, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 10, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	73787
Jan. 10, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	73787

Jan. 10, 2011	ASSIGNED TO LIE	73787
Dec. 10, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 17, 2010	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jun. 17, 2010	NON-FINAL ACTION E-MAILED	6325
Jun. 17, 2010	NON-FINAL ACTION WRITTEN	72517
Jun. 16, 2010	REMOVED FROM TEAS PLUS	72517
May 26, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 26, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
May 26, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
May 26, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
May 06, 2010	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
May 06, 2010	NON-FINAL ACTION E-MAILED	6325
May 06, 2010	NON-FINAL ACTION WRITTEN	72517
Apr. 28, 2010	ASSIGNED TO EXAMINER	72517
Feb. 04, 2010	NOTICE OF DESIGN SEARCH CODE MAILED	
Feb. 03, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 02, 2010	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 102

Date in Location: Jun. 07, 2018

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