

ESTTA Tracking number: **ESTTA1122329**

Filing date: **03/23/2021**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Atalanta Corporation
Granted to Date of previous extension	03/24/2021
Address	1 ATALANTA PLAZA ELIZABETH, NJ 07206 UNITED STATES
Attorney information	PAUL A. JUERGENSEN LEVY, STOPOL & CAMELO, LLP 1425 RXR PLAZA UNIONDALE, NY 11556-1425 UNITED STATES Primary Email: pjuergensen@levystopol.com Secondary Email(s): dcamelo@levystopol.com 516-802-7007
Docket Number	

Applicant Information

Application No.	90044539	Publication date	11/24/2020
Opposition Filing Date	03/23/2021	Opposition Period Ends	03/24/2021
Applicant	Bumble Bee Trading 15271 FAIRFIELD RANCH ROAD, SUITE 170 CHINO HILLS, CA 91709 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Canned fruits; Preserved, frozen, dried and cooked fruits and vegetables; Frozen fish; Dried fish; Frozen, frosted, preserved, processed, dried, cooked or crystallized fruit and vegetables extracts for use in prepared meals or food
Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Tea; noodles; rice; candy; and condiments, namely, soy sauce, fish sauce, vinegar, ketchup and sweet chili sauce

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4642388	Application Date	10/04/2013
Registration Date	11/18/2014	Foreign Priority Date	NONE
Word Mark	MARIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2012/01/01 First Use In Commerce: 2012/01/01 Blended Oil, Olive Oil, Processed Olives, Processed Mushrooms, Processed Jalapenos; Processed Pepperoncini; [Pickled Vegetables Giardiniera;] Processed Mandarin Oranges		

U.S. Registration No.	4642389	Application Date	10/04/2013
Registration Date	11/18/2014	Foreign Priority Date	NONE
Word Mark	MARIA BRAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2012/01/01 First Use In Commerce: 2012/01/01 Blended Oil, Olive Oil, Processed Olives, Processed Mushrooms, Processed Jalapenos; Processed Pepperoncini; [Pickled Vegetable Giardiniera;] Processed Mandarin Oranges		

U.S. Registration No.	2880253	Application Date	06/27/2002
Registration Date	08/31/2004	Foreign Priority Date	NONE
Word Mark	MARIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1984/04/00 First Use In Commerce: 1984/04/00 [ESCARGOT] Class 030. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 PROCESSED BABY CORN, [PEPPER CORNS,] CAPERS		

U.S. Registration No.	3530985	Application Date	01/22/2008
Registration Date	11/11/2008	Foreign Priority Date	NONE
Word Mark	MARIA BRAND		
Design Mark			
Description of Mark	The mark consists of the word "MARIA" in large letters and the word "BRAND" in small letters, with a design of a woman's profile wearing a flower inside a banner placed on top of a shield.		

Goods/Services	Class 029. First use: First Use: 2007/01/00 First Use In Commerce: 2007/01/00 processed artichokes, processed hearts of palm, processed pimiento, and processed roasted peppers		
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U.S. Registration No.	3511346	Application Date	01/15/2008
Registration Date	10/07/2008	Foreign Priority Date	NONE
Word Mark	MARIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1997/01/10 First Use In Commerce: 1998/01/00 processed roasted peppers and processed anchovies Class 030. First use: First Use: 1997/01/10 First Use In Commerce: 1998/01/00 mustard and vinegar		

U.S. Registration No.	3925885	Application Date	01/22/2008
Registration Date	03/01/2011	Foreign Priority Date	NONE
Word Mark	MARIA BRAND		
Design Mark			
Description of Mark	The mark consists of the word "MARIA" in large letters and the word "BRAND" in small letters, with a design of a woman's profile wearing a flower inside a banner placed on top of a shield.		
Goods/Services	Class 029. First use: First Use: 2010/02/00 First Use In Commerce: 2010/02/00 processed anchovies Class 030. First use: First Use: 2010/02/00 First Use In Commerce: 2010/02/00 mustard, vinegar, processed capers and processed baby corn		

U.S. Registration No.	1199736	Application Date	12/31/1980
Registration Date	06/29/1982	Foreign Priority Date	NONE
Word Mark	MARIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1965/05/01 First Use In Commerce: 1965/05/01 Processed Artichokes, Hearts of Palm and Pimiento		

U.S. Registration No.	863234	Application Date	03/27/1968
Registration Date	01/07/1969	Foreign Priority Date	NONE
Word Mark	MARIA		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 029. First use: First Use: 1965/05/01 First Use In Commerce: 1965/05/01 CANNED CARROTS [, WATER CHESTNUTS,] AND ARTICHOKEs
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Attachments	Notice of Opposition.pdf(270904 bytes)
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Signature	/paul a. juergensen/
Name	Paul A. Juergensen
Date	03/23/2021

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

In The Matter of Trademark Application Serial No. 90/044,539
Filed July 9, 2020 for the mark MARIA CLARA & Design
Published in the Official Gazette on November 24, 2020

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ATALANTA CORPORATION,	:	
	:	
Opposer,	:	Opposition No.:
	:	
v.	:	
	:	
BUMBLE BEE TRADING,	:	
	:	
Applicant.	:	
	:	
-----X	:	

NOTICE OF OPPOSITION

Atalanta Corporation, a New York corporation having a principal place of business at One Atalanta Plaza, Elizabeth, New Jersey 07206 (“Opposer”) believes that it will be damaged by registration of Application Serial No. 90/044,539 for the mark MARIA CLARA & Design and hereby opposes said application limited to the goods in International Classes 29 and 30. As grounds for opposition, Opposer alleges as follows:

1. Opposer Atalanta Corporation is a multinational food importer specializing in, *inter alia*, meat and fish products, cheese, canned vegetables and canned fruits from around the world. Opposer and its predecessors-in-interest have been engaged in the food import business for seventy-five (75) years.

2. Opposer and its predecessors-in-interest have adopted and continuously used the trademark MARIA since at least as early as 1965 to the present to identify and distinguish its high-quality food products.

3. Through its extensive sales and continuous and exclusive use for over 50 years, Opposer has developed extensive goodwill throughout the United States with respect to the mark MARIA as applied to a wide variety of food products including, *inter alia*, processed vegetables, processed fruit, oils, mustard and vinegar (hereinafter “Opposer’s Goods”).



4. Opposer and its predecessors-in-interest have also adopted and continuously used a stylized design of a women in connection with its MARIA mark:



since at least as early as 2007 to the present in connection with certain of Opposer’s Goods.

5. Opposer is the owner of the following U.S. Trademark Registrations covering the marks MARIA, MARIA BRAND and MARIA & Design in International Classes 29 and 30:

Mark	Goods	Registration Date (Registration No.)	First Use
MARIA	Blended Oil, Olive Oil, Processed Olives, Processed Mushrooms, Processed Jalapenos; Processed Pepperoncini; Processed Mandarin Oranges	11/18/2014 (4,642,388)	1/1/2012

Mark	Goods	Registration Date	Mark
MARIA BRAND	Blended Oil, Olive Oil, Processed Olives, Processed Mushrooms, Processed Jalapenos; Processed Pepperoncini; Processed Mandarin Oranges	11/18/2014 (4,642,389)	1/1/2012
MARIA	Processed baby corn, capers	8/31/2004 (2,880,253)	1/00/1997
	Processed artichokes, processed hearts of palm, processed pimiento, and processed roasted peppers	11/11/2008 (3,530,985)	1/00/2007
MARIA	Processed roasted peppers and processed anchovies mustard and vinegar	10/7/2008 (3,511,346)	1/00/1998
	processed anchovies mustard, vinegar, processed capers and processed baby corn	3/1/2011 (3,925,885)	2/00/2010
MARIA	Processed Artichokes, Hearts of Palm and Pimiento	6/29/1982 (1,199,736)	5/01/1965
MARIA	Canned carrots and artichokes	1/7/1969 (863,234)	5/01/1965

Copies of the Certificates of Registration for Atalanta's marks (the "MARIA Marks") are attached hereto as Exhibit A.

6. Application Serial No. 90/044,539 was filed July 9, 2020 for the mark:



covering, *inter alia*, the following pertinent goods: "Canned fruits; Preserved, frozen, dried and cooked fruits and vegetables; Frozen fish; Dried fish; Frozen, frosted, preserved, processed, dried, cooked or crystallized fruit and vegetables extracts for use in prepared meals or food" in International Class 29 and "Tea; noodles; rice; candy; and condiments, namely, soy sauce, fish sauce, vinegar, ketchup and sweet chili sauce" in International Class 30 (the "Applicant's Goods").

7. Since long prior to the filing date of the Application and in some instances at least as early as 1965, Opposer and its predecessors-in-interest have continuously used the MARIA Marks on and in connection with Opposer's Goods.

8. The instant Application was filed on July 9, 2020 and is based upon an intent-to-use or use in interstate commerce. As such, Opposer's use of its MARIA Marks predates the filing date of the subject Application, thereby entitling Opposer to priority in rights over Applicant.

9. Applicant's Goods are identical to and/or highly related and complimentary to the Opposer's Goods such that the use of Applicant's mark MARIA CLARA & Design on and in connection with such goods is likely to cause confusion, or to cause mistake or to deceive.

10. The mark MARIA CLARA & Design as applied to Applicant's Goods is confusingly and deceptively similar to Opposer's MARIA Marks in that it creates the same overall commercial impression, such that the trade and purchasing public will be confused and deceived by believing that Applicant's Goods originate with or are otherwise authorized, sponsored, licensed or associated with Opposer.

11. Based on the foregoing, registration of Application Serial No. 90/044,539 will cause damage to Opposer, and registration should, therefore, be denied.

WHEREFORE, it is respectfully requested that the Trademark Trial and Appeal Board refuse registration to Application Serial No. 90/044,539.

Respectfully submitted,

ATALANTA CORPORATION

Date: March 22, 2021

By: /s/ Paul A. Juergensen
Paul A. Juergensen
Dianne M. Camelo
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EXHIBIT A

United States of America
United States Patent and Trademark Office

MARIA

Reg. No. 4,642,388

Registered Nov. 18, 2014

Int. Cl.: 29

TRADEMARK

PRINCIPAL REGISTER

ATALANTA CORPORATION (NEW YORK CORPORATION)
1 ATALANTA PLAZA
ELIZABETH, NJ 07206

FOR: BLENDED OIL, OLIVE OIL, PROCESSED OLIVES, PROCESSED MUSHROOMS,
PROCESSED JALAPENOS; PROCESSED PEPPERONCINI; PICKLED VEGETABLES
GIARDINIERA; PROCESSED MANDARIN ORANGES , IN CLASS 29 (U.S. CL. 46).

FIRST USE 1-1-2012; IN COMMERCE 1-1-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 863,234, 2,880,253, AND OTHERS.

SN 86-083,099, FILED 10-4-2013.

RAUL CORDOVA, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office

MARIA BRAND

Reg. No. 4,642,389

Registered Nov. 18, 2014

Int. Cl.: 29

TRADEMARK

PRINCIPAL REGISTER

ATLANTA CORPORATION (NEW YORK CORPORATION)
1 ATLANTA PLAZA
ELIZABETH, NJ 07206

FOR: BLENDED OIL, OLIVE OIL, PROCESSED OLIVES, PROCESSED MUSHROOMS,
PROCESSED JALAPENOS; PROCESSED PEPPERONCINI; PICKLED VEGETABLE
GIARDINIERA; PROCESSED MANDARIN ORANGES , IN CLASS 29 (U.S. CL. 46).

FIRST USE 1-1-2012; IN COMMERCE 1-1-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,530,985 AND 3,925,885.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BRAND", APART FROM THE
MARK AS SHOWN.

SN 86-083,206, FILED 10-4-2013.

RAUL CORDOVA, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,880,253

Registered Aug. 31, 2004

**TRADEMARK
PRINCIPAL REGISTER**

MARIA

H & J TRADING CO. (PARTNERSHIP)
15 CROW CANYON COURT, SUITE 100
SAN RAMON, CA 94583

FOR: ESCARGOT, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-0-1984; IN COMMERCE 4-0-1984.

FOR: PROCESSED BABY CORN, PEPPER CORNS,
CAPERS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-0-1997; IN COMMERCE 1-0-1997.

OWNER OF U.S. REG. NOS. 863,234 AND 1,199,736.

SN 78-139,539, FILED 6-27-2002.

ZACHARY BELLO, EXAMINING ATTORNEY

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,530,985

Registered Nov. 11, 2008

TRADEMARK
PRINCIPAL REGISTER



H & J TRADING COMPANY (CALIFORNIA
PARTNERSHIP)
NO. 100, 15 CROW CANYON COURT
SAN RAMON, CA 94583

FOR: PROCESSED ARTICHOKEs, PROCESSED
HEARTS OF PALM, PROCESSED PIMIENTO, AND
PROCESSED ROASTED PEPPERS, IN CLASS 29 (U.S.
CL. 46).

FIRST USE 1-0-2007; IN COMMERCE 1-0-2007.

OWNER OF U.S. REG. NOS. 863,234, 1,199,736,
AND 2,880,253.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "BRAND", APART FROM THE
MARK AS SHOWN.

THE PORTRAIT IN THE MARK DOES NOT
IDENTIFY A LIVING INDIVIDUAL. THE NAME
"MARIA" DOES NOT IDENTIFY A LIVING INDIVI-
DUAL.

THE MARK CONSISTS OF THE WORD "MARIA"
IN LARGE LETTERS AND THE WORD "BRAND"
IN SMALL LETTERS, WITH A DESIGN OF A
WOMAN'S PROFILE WEARING A FLOWER INSIDE
A BANNER PLACED ON TOP OF A SHIELD.

SER. NO. 77-975,704, FILED 1-22-2008.

ANGELA GAW, EXAMINING ATTORNEY

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,511,346

Registered Oct. 7, 2008

TRADEMARK
PRINCIPAL REGISTER

MARIA

H & J TRADING COMPANY (CALIFORNIA
PARTNERSHIP)
NO. 100
15 CROW CANYON COURT
SAN RAMON, CA 94583

FOR: PROCESSED ROASTED PEPPERS AND
PROCESSED ANCHOVIES, IN CLASS 29 (U.S. CL.
46).

FIRST USE 1-10-1997; IN COMMERCE 1-0-1998.

FOR: MUSTARD AND VINEGAR , IN CLASS 30
(U.S. CL. 46).

FIRST USE 1-10-1997; IN COMMERCE 1-0-1998.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 863,234, 1,199,736,
AND 2,880,253.

THE NAME "MARIA" DOES NOT IDENTIFY A
LIVING INDIVIDUAL.

SER. NO. 77-372,539, FILED 1-15-2008.

ANGELA GAW, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office



Reg. No. 3,925,885

Registered Mar. 1, 2011

Int. Cls.: 29 and 30

TRADEMARK

PRINCIPAL REGISTER

H & J TRADING COMPANY (CALIFORNIA PARTNERSHIP)
NO. 100, 15 CROW CANYON COURT
SAN RAMON, CA 94583

FOR: PROCESSED ANCHOVIES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 2-0-2010; IN COMMERCE 2-0-2010.

FOR: MUSTARD, VINEGAR, PROCESSED CAPERS AND PROCESSED BABY CORN , IN
CLASS 30 (U.S. CL. 46).

FIRST USE 2-0-2010; IN COMMERCE 2-0-2010.

OWNER OF U.S. REG. NOS. 863,234, 1,199,736, AND 2,880,253.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BRAND", APART FROM THE
MARK AS SHOWN.

THE NAME "MARIA" DOES NOT IDENTIFY A LIVING INDIVIDUAL. THE PORTRAIT IN
THE MARK DOES NOT IDENTIFY A LIVING INDIVIDUAL.

THE MARK CONSISTS OF THE WORD "MARIA" IN LARGE LETTERS AND THE WORD
"BRAND" IN SMALL LETTERS, WITH A DESIGN OF A WOMAN'S PROFILE WEARING A
FLOWER INSIDE A BANNER PLACED ON TOP OF A SHIELD.

SN 77-377,729, FILED 1-22-2008.

ANGELA DUONG, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,199,736
Registered Jun. 29, 1982

TRADEMARK
Principal Register

MARIA

H & J Trading Co. (partnership)
100 Webster St.
Oakland, Calif. 94607

For: PROCESSED ARTICHOKES, HEARTS
OF PALM AND PIMIENTO, in CLASS 29 (U.S.
Cl. 46).

First use May 1, 1965; in commerce May 1, 1965.
Owner of U.S. Reg. No. 863,234.

Ser. No. 291,577, filed Dec. 31, 1980.

JERRY L. PRICE, Primary Examiner

JESSIE N. MARSHALL, Examiner

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Renewal

Reg. No. 863,234

Registered Jan. 7, 1969

OG Date June 27, 1989

**TRADEMARK
PRINCIPAL REGISTER**

MARIA

H & J TRADING CO. (PARTNERSHIP)
100 WEBSTER STREET
OAKLAND, CA 94607, ASSIGNEE OF H
& J TRADING CO. (PARTNERSHIP)
SAN FRANCISCO, CA

FOR: CANNED CARROTS [, WATER
CHESTNUTS,] AND ARTICHOKEs, IN
CLASS 46 (INT. CL. 29).
FIRST USE 5-1-1965; IN COMMERCE
5-1-1965.

SER. NO. 294,278, FILED 3-27-1968.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on June 27, 1989.*

COMMISSIONER OF PATENTS AND TRADEMARKS

United States Patent Office

863,234

Registered Jan. 7, 1969

PRINCIPAL REGISTER Trademark

Ser. No. 294,278, filed Mar. 27, 1968

MARIA

H & J Trading Co. (partnership)
699 2d St.
San Francisco, Calif. 94107

For: CANNED CARROTS, WATER CHESTNUTS,
AND ARTICHOKEs, in CLASS 46 (INT. CL. 29).
First use about May 1, 1965; in commerce about May
1, 1965.

A. G. DIETZ, Examiner.