

ESTTA Tracking number: **ESTTA1233992**

Filing date: **09/06/2022**

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	RALPH'S FAMOUS ITALIAN ICES FRANCHISE CORP.
Granted to date of previous extension	09/04/2022
Address	501 PORT RICHMOND AVENUE STATEN ISLAND, NY 10302 UNITED STATES
Attorney information	DAVID L. MAY NIXON PEABODY LLP 799 9TH STREET NW, SUITE 500 WASHINGTON, DC 20001 UNITED STATES Primary email: nptm@nixonpeabody.com Secondary email(s): jpsihoules@nixonpeabody.com, nptm@nixonpeabody.com, dmay@nixonpeabody.com 202 585 8000
Docket no.	

**Applicant information**

Application no.	90734285	Publication date	03/08/2022
Opposition filing date	09/06/2022	Opposition period ends	09/04/2022
Applicant	PRL USA Holdings, Inc. 650 MADISON AVENUE NEW YORK, NY 10022 UNITED STATES		

**Goods/services affected by opposition**

Class 018. First Use: Sep 8, 2014 First Use In Commerce: Sep 8, 2014 All goods and services in the class are opposed, namely: Tote bags, pouches made of cloth
Class 021. First Use: Sep 8, 2014 First Use In Commerce: Sep 8, 2014 All goods and services in the class are opposed, namely: Drinking glasses, namely, tumblers; bowls, coffee mugs, serving platters

**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	3816413	Application date	05/01/2009
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no.			
Register	Principal		
Registration date	07/13/2010	Foreign priority date	NONE
Word mark	RALPH'S FAMOUS ITALIAN ICES		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 035. First use: First Use: Oct 2008 First Use In Commerce: Oct 2008  Restaurant franchising; franchise services, namely, offering business management assistance in the establishment and operation of retail establishments featuring Italian Ice, ice cream, and frozen drinks</p> <p>Class 043. First use: First Use: Oct 2008 First Use In Commerce: Oct 2008  Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks</p>		

U.S. registration no.	4354214	Application date	05/01/2009
Register	Principal		
Registration date	06/18/2013	Foreign priority date	NONE
Word mark	RALPH'S FAMOUS ITALIAN ICES & ICE CREAM		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 035. First use: First Use: Apr 23, 2013 First Use In Commerce: Apr 23, 2013  Restaurant franchising; franchise services, namely, offering business management assistance in the establishment and operation of retail establishments featuring Italian Ice, ice cream, and frozen drinks</p> <p>Class 043. First use: First Use: Apr 23, 2013 First Use In Commerce: Apr 23, 2013  Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks</p>		

U.S. registration no.	4661722	Application date	01/22/2013
Register	Principal		
Registration date	12/30/2014	Foreign priority date	NONE
Word mark	RALPH'S FAMOUS ITALIAN ICES		

Design mark	RALPH'S FAMOUS ITALIAN ICES
Description of mark	NONE
Goods/services	Class 030. First use: First Use: Jan 2000 First Use In Commerce: Jan 2000 Frozen confections; ice cream; Italian ices; ice cream drinks; coffee based beverages Class 032. First use: First Use: Jan 2000 First Use In Commerce: Jan 2000 Fruit drinks

U.S. registration no.	5695423	Application date	02/24/2017
Register	Principal		
Registration date	03/12/2019	Foreign priority date	NONE

Word mark	RALPH'S FAMOUS ITALIAN ICES & ICE CREAM
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Description of mark	The mark consists of two concentric ovals containing the stylized unshaded wording, "RALPH'S" printed near the top, with a stylized lemon with a face, wearing a hat and bowtie to the right, placed on the border of the concentric ovals, with the unshaded word, "FAMOUS" in all caps, placed inside a shaded oval with rays, with the wording, "ITALIAN ICES &" printed below, with "ICE CREAM", below "ITALIAN ICES &", with all the foregoing inside the inner concentric oval.
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Goods/services	Class 043. First use: First Use: Mar 2012 First Use In Commerce: Mar 2012 Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks
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U.S. registration no.	6158335	Application date	07/04/2019
Register	Principal		

Registration date	09/22/2020	Foreign priority date	NONE
Word mark	RALPH'S FAMOUS ITALIAN ICES & ICE CREAM		
Design mark			
Description of mark	The mark consists of the word "RALPH'S" above the word "FAMOUS" above the words "ITALIAN ICES &" above the words "ICE CREAM", all in stylized form with two curved lines underneath.		
Goods/services	Class 043. First use: First Use: Jun 2019 First Use In Commerce: Jun 2019 Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks		

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	RALPH'S		
Goods/services	Restaurant franchising; franchise services, namely, offering business management assistance in the establishment and operation of retail establishments featuring Italian ice, ice cream, and frozen drinks and Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks; Frozen confections; ice cream; Italian ices; ice cream drinks; coffee based beverages; Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks		

Attachments	85828817#TMSN.png( bytes ) 87979831#TMSN.png( bytes ) Notice of Opposition.pdf(402454 bytes ) Exhibit A - Ralphps.pdf(978767 bytes ) Exhibit B - 90734285.pdf(122109 bytes )
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Signature	/Jennette W. Psihoules/
Name	Jennette W. Psihoules
Date	09/06/2022

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

In the Matter of:  
Application Serial No.: 90/734,285



Mark:  
Filed: May 25, 2021  
Published in the *Official Gazette*: March 8, 2022

Ralph's Famous Italian Ices Franchise Corp.,	)	
	)	Opposition No. _____
Opposer,	)	Application Serial No.
	)	90/734,285
v.	)	
	)	
PRL USA Holdings, Inc.,	)	
	)	
Applicant.	)	
	)	

**NOTICE OF OPPOSITION**

Ralph's Famous Italian Ices Franchise Corp., a New York corporation, with its principal place of business at 501 Port Richmond Avenue, Staten Island, New York 10302 (hereinafter "Ralph's"), believing that it will be damaged by registration of the following application, hereby opposes (hereinafter the "Opposition") registration of U.S. Trademark Application Serial No.



90/734,285 for the mark \_\_\_\_\_, filed on May 25, 2021, in the name of PRL USA


Holdings, Inc., a Delaware corporation, with an address of record of 650 Madison Ave., New York, New York 10022 (hereinafter, “**Applicant**”), and published for opposition in the *Official Gazette* on March 8, 2022.

The grounds for this Opposition are as follows:


1. Ralph’s is the owner of the following U.S. trademark registrations (copies of the registration certificates for the following registrations are attached hereto as **Exhibit A**) (hereinafter the “**Ralph’s Registrations**”):

- a. U.S. Registration No. 3,816,413 for the mark RALPH’S FAMOUS ITALIAN ICES for use with *Restaurant franchising; franchise services, namely, offering business management assistance in the establishment and operation of retail establishments featuring Italian Ice, ice cream, and frozen drinks and Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks*, filed May 1, 2009;
- b. U.S. Registration No. 4,354,214 for the mark RALPH’S FAMOUS ITALIAN ICES & ICE CREAM for use with *Restaurant franchising; franchise services, namely, offering business management assistance in the establishment and operation of retail establishments featuring Italian Ice, ice cream, and frozen drinks and Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks*, filed May 1, 2009;
- c. U.S. Registration No. 4,661,722 for the mark RALPH’S FAMOUS ITALIAN ICES for use with *Frozen confections; ice cream; Italian ices; ice cream drinks; coffee based beverages*, filed January 22, 2013;



- d. U.S. Registration No. 5,695,423 for the mark  for use with *Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks*, filed February 24, 2017; and



- e. U.S. Registration No. 6,158,335 for the mark  for use with *Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks*, filed July 4, 2019.

2. Ralph's has long used the mark RALPH'S, including but not limited to as part of the marks set forth in the Ralph's Registrations, in U.S. commerce in connection with a wide range of goods and services, including but not limited to the goods and services set forth in the aforementioned registrations (hereinafter the "**Ralph's Goods and Services**"), and has established common law rights thereto in addition to the aforementioned registered rights to the marks set forth in Ralph's Registrations.


3. The mark RALPH'S and the marks set forth in the Ralph's Registrations are hereinafter collectively referred to as the "**Ralph's Marks**."

4. As a result of Ralph's longstanding use of and investment of resources in the Ralph's Marks, Ralph's has developed significant goodwill and reputation in its marks.

5. The Ralph's Marks have trademark significance and act as single source identifiers relative to at least the Ralph's Goods and Services.

6. On May 25, 2021, Applicant filed U.S. Trademark Application Serial No.



90/734,285 for the mark  for use with *Tote bags, pouches made of cloth* in Class 18 and *Drinking glasses, namely, tumblers; bowls, coffee mugs, serving platters* in Class 21 (a copy of the Trademark Status & Document Retrieval record for the foregoing application is attached hereto as **Exhibit B**) (hereinafter the “**Opposed Application**” and the “**Opposed Mark**,” respectively).

7. Ralph’s has established rights in the Ralph’s Marks with at least the Ralph’s Goods and Services prior to any date Applicant can rely relative to the Opposed Mark.

8. Upon information and belief, Applicant has not used the Opposed Mark in connection with tote bags in U.S. commerce prior to September 8, 2014.

9. Upon information and belief, Applicant has not used the Opposed Mark in connection with pouches made of cloth in U.S. commerce prior to September 8, 2014.

10. Upon information and belief, Applicant has not used the Opposed Mark in connection with drinking glasses, namely, tumblers in U.S. commerce prior to September 8, 2014.

11. Upon information and belief, Applicant has not used the Opposed Mark in connection with bowls in U.S. commerce prior to September 8, 2014.

12. Upon information and belief, Applicant has not used the Opposed Mark in connection with coffee mugs in U.S. commerce prior to September 8, 2014.

13. Upon information and belief, Applicant has not used the Opposed Mark in connection with serving platters in U.S. commerce prior to September 8, 2014.



14. Upon information and belief, Applicant advertises and promotes the goods for which it seeks registration of the Opposed Mark in the same channels of trade that Applicant advertises and promotes its restaurant services in connection with the Opposed Mark.

15. Upon information and belief, Applicant advertises and promotes the goods for which it seeks registration of the Opposed Mark to the same class of consumers to whom Applicant advertises and promotes its restaurant services in connection with the Opposed Mark.

16. Applicant has not used the Opposed Mark in U.S. commerce, or otherwise, in connection with any of the goods identified in the Opposed Application prior to May 1, 2009.

17. Applicant has not used the Opposed Mark in U.S. commerce, or otherwise, in connection with any of the goods identified in the Opposed Application prior to June 22, 2013.

18. Applicant has not used the Opposed Mark in U.S. commerce, or otherwise, in connection with any good or service of any kind prior to May 1, 2009.

19. Upon information and belief, Applicant is of the belief that Ralph's use of the mark RALPH'S for or in connection with any of Ralph's Goods and Services is not confusingly similar to the Opposed Mark for use in connection with the goods identified in the Opposed Application for which Applicant seeks registration in the Opposed Mark.

20. The Opposed Mark is confusingly similar to one or more of the Ralph's Marks and has been filed for use with goods that are highly related to the Ralph's Goods and Services.

21. In view of the foregoing, Applicant's proposed use and registration of the Opposed Mark set forth in the Opposed Application will create a likelihood of confusion, mistake and/or deception among consumers, within the meaning of Trademark Act § 2(d), with Ralph's and the Ralph's Marks, all to the detriment of Ralph's.

WHEREFORE, Ralph's believes and avers that it is being and will continue to be damaged by the registration of the Opposed Mark as aforesaid, and requests that the Opposed Application be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Ralph's.

Ralph's has appointed David L. May and Jennette W. Psihoules of the law firm of Nixon Peabody LLP, and members of a U.S. Bar in good standing, to prosecute this Opposition and to transact all business in and before the United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

David L. May  
Jennette W. Psihoules  
NIXON PEABODY LLP  
799 9th Street NW  
Suite 500  
Washington, DC 20001

[nptm@nixonpeabody.com](mailto:nptm@nixonpeabody.com); [was.managing.clerk@nixonpeabody.com](mailto:was.managing.clerk@nixonpeabody.com);  
[dmay@nixonpeabody.com](mailto:dmay@nixonpeabody.com); [jpsihoules@nixonpeabody.com](mailto:jpsihoules@nixonpeabody.com)

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-2686.

Respectfully submitted,

Dated: September 6, 2022

**NIXON PEABODY LLP**

By /s/Jennette W. Psihoules

David L. May

Jennette W. Psihoules

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*Counsel for Ralph's Famous Italian Ices  
Franchise Corp.*

# **EXHIBIT A**

# United States of America

United States Patent and Trademark Office

RALPH'S FAMOUS ITALIAN ICES

**Reg. No. 3,816,413**

**Registered July 13, 2010**

**Int. Cls.: 35 and 43**

**SERVICE MARK**

**PRINCIPAL REGISTER**

JMS ICES, INC. (NEW YORK CORPORATION)  
501 PORT RICHMOND AVENUE  
STATEN ISLAND, NY 10302

FOR: RESTAURANT FRANCHISING; FRANCHISE SERVICES, NAMELY, OFFERING BUSINESS MANAGEMENT ASSISTANCE IN THE ESTABLISHMENT AND OPERATION OF RETAIL ESTABLISHMENTS FEATURING ITALIAN ICE, ICE CREAM, AND FROZEN DRINKS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-0-2008; IN COMMERCE 10-0-2008.

FOR: RESTAURANT SERVICES, RESTAURANT SERVICES FEATURING ITALIAN ICE, ICE CREAM, AND FROZEN DRINKS; SERVING FOOD AND DRINKS, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 10-0-2008; IN COMMERCE 10-0-2008.

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

OWNER OF U.S. REG. NOS. 2,338,849 AND 2,792,462.

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

SER. NO. 77-726,940, FILED 5-1-2009.

THOMAS MANOR, EXAMINING ATTORNEY



*David J. Kyfos*

Director of the United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## RALPH'S FAMOUS ITALIAN ICES & ICE CREAM

**Reg. No. 4,354,214**

**Registered June 18, 2013**

**Int. Cls.: 35 and 43**

**SERVICE MARK**

**PRINCIPAL REGISTER**

JMS ICES, INC. (NEW YORK CORPORATION)  
501 PORT RICHMOND AVENUE  
STATEN ISLAND, NY 10302

FOR: RESTAURANT FRANCHISING; FRANCHISE SERVICES, NAMELY, OFFERING BUSINESS MANAGEMENT ASSISTANCE IN THE ESTABLISHMENT AND OPERATION OF RETAIL ESTABLISHMENTS FEATURING ITALIAN ICE, ICE CREAM, AND FROZEN DRINKS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-23-2013; IN COMMERCE 4-23-2013.

FOR: RESTAURANT SERVICES, RESTAURANT SERVICES FEATURING ITALIAN ICE, ICE CREAM, AND FROZEN DRINKS; SERVING FOOD AND DRINKS, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 4-23-2013; IN COMMERCE 4-23-2013.

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

OWNER OF U.S. REG. NOS. 2,338,849 AND 2,792,462.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FAMOUS ITALIAN ICES & ICE CREAM", APART FROM THE MARK AS SHOWN.

SN 77-726,943, FILED 5-1-2009.

THOMAS MANOR, EXAMINING ATTORNEY



*Sean Street Lee*

Acting Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

# United States of America

United States Patent and Trademark Office

## RALPH'S FAMOUS ITALIAN ICES

**Reg. No. 4,661,722**

**Registered Dec. 30, 2014**

**Int. Cls.: 30 and 32**

**TRADEMARK**

**PRINCIPAL REGISTER**

RALPH'S FAMOUS ITALIAN ICES FRANCHISE CORP. (NEW YORK CORPORATION)  
501 PORT RICHMOND AVENUE  
STATEN ISLAND, NY 10302

FOR: FROZEN CONFECTIONS; ICE CREAM; ITALIAN ICES; ICE CREAM DRINKS; COFFEE  
BASED BEVERAGES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-0-2000; IN COMMERCE 1-0-2000.

FOR: FRUIT DRINKS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 1-0-2000; IN COMMERCE 1-0-2000.

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

OWNER OF U.S. REG. NOS. 3,514,257 AND 3,816,413.

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

SEC. 2(F) AS TO "FAMOUS ITALIAN ICES".

SER. NO. 85-828,817, FILED 1-22-2013.

ZACHARY BELLO, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office



**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

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**Requirements in the First Ten Years\***  
**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***  
**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

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# United States of America

United States Patent and Trademark Office



**Reg. No. 5,695,423**

**Registered Mar. 12, 2019**

**Int. Cl.: 43**

**Service Mark**

**Principal Register**

Ralph's Famous Italian Ices Franchise Corp. (NEW YORK CORPORATION)  
501 Port Richmond Avenue  
Staten Island, NEW YORK 10302

CLASS 43: Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks

FIRST USE 3-00-2012; IN COMMERCE 3-00-2012

The mark consists of two concentric ovals containing the stylized unshaded wording, "RALPH'S" printed near the top, with a stylized lemon with a face, wearing a hat and bowtie to the right, placed on the border of the concentric ovals, with the unshaded word, "FAMOUS" in all caps, placed inside a shaded oval with rays, with the wording, "ITALIAN ICES &" printed below, with "ICE CREAM", below "ITALIAN ICES &", with all the foregoing inside the inner concentric oval.

No claim is made to the exclusive right to use the following apart from the mark as shown: "ITALIAN ICES & ICE CREAM" LIMITED TO IC 043

SEC. 2(F) As to "FAMOUS"

The name, "RALPH'S" shown in the mark does not identify a particular living individual.

SER. NO. 87-979,831, FILED 02-24-2017



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

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**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

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**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

# United States of America

United States Patent and Trademark Office



**Reg. No. 6,158,335**

**Registered Sep. 22, 2020**

**Int. Cl.: 43**

**Service Mark**

**Principal Register**

Ralph's Famous Italian Ices Franchise Corp. (NEW YORK CORPORATION)  
501 Port Richmond Avenue  
Staten Island, NEW YORK 10302

CLASS 43: Restaurant services, restaurant services featuring Italian ice, ice cream, and frozen drinks; serving food and drinks

FIRST USE 6-00-2019; IN COMMERCE 6-00-2019

The mark consists of the word "RALPH'S" above the word "FAMOUS" above the words "ITALIAN ICES &" above the words "ICE CREAM", all in stylized form with two curved lines underneath.

OWNER OF U.S. REG. NO. 4661772, 5695423

No claim is made to the exclusive right to use the following apart from the mark as shown: "ITALIAN ICES & ICE CREAM"

SEC.2(F)

SER. NO. 88-978,576, FILED 07-04-2019



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office



## REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

### Requirements in the First Ten Years\*

#### What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

### Requirements in Successive Ten-Year Periods\*

#### What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

### Grace Period Filings\*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

# **EXHIBIT B**

**Generated on:** This page was generated by TSDR on 2022-09-06 16:31:17 EDT

**Mark:** ENJOY A CUP OF RALPH'S COFFEE JAVA & MOCHA RALPH LAUREN N.Y.C.



**US Serial Number:** 90734285

**Application Filing Date:** May 25, 2021

**Register:** Principal

**Mark Type:** Trademark

**TM5 Common Status Descriptor:**



LIVE/APPLICATION/Published for Opposition

A pending trademark application has been examined by the Office and has been published in a way that provides an opportunity for the public to oppose its registration.

**Status:** A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Mar. 08, 2022

**Publication Date:** Mar. 08, 2022

## Mark Information

**Mark Literal Elements:** ENJOY A CUP OF RALPH'S COFFEE JAVA & MOCHA RALPH LAUREN N.Y.C.

**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 stylized depiction of a coffee cup and saucer, with the wording "ENJOY A CUP OF" on the top portion of the interior side of the coffee cup and the wording "RALPH'S COFFEE JAVA & MOCHA RALPH LAUREN" across the front of the coffee cup; and "N.Y.C." across the lower portion of the saucer all the wording is in stylized lettering. The wording "JAVA & MOCHA" is contained within a rectangular banner design.

**Disclaimer:** "COFFEE JAVA & MOCHA" AND "N.Y.C."

**Design Search Code(s):** 11.03.03 - Coffee cups

**Name Portrait Consent:** The name(s), shown in the mark identify "Ralph Lauren", whose consent to register is made of record.

## Related Properties Information

**Claimed Ownership of US Registrations:** 4742755, 4742756

## 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:** Tote bags, pouches made of cloth

**International Class(es):** 018 - Primary Class

**U.S Class(es):** 001, 002, 003, 022, 041

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Sep. 08, 2014

**Use in Commerce:** Sep. 08, 2014

**For:** Drinking glasses, namely, tumblers; bowls, coffee mugs, serving platters

**International Class(es):** 021 - Primary Class

**U.S Class(es):** 002, 013, 023, 029, 030, 033, 040, 050

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Sep. 08, 2014

**Use in Commerce:** Sep. 08, 2014

## 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:** PRL USA Holdings, Inc.

**Owner Address:** 650 Madison Avenue  
New York, NEW YORK UNITED STATES 10022

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Daniel I. Schloss

**Docket Number:** 094490010000

**Attorney Primary Email Address:** [gtipmail@gtlaw.com](mailto:gtipmail@gtlaw.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** Daniel I. Schloss  
GREENBERG TRAUIG LLP  
One Vanderbilt Avenue  
NEW YORK, NEW YORK UNITED STATES 10017

**Phone:** 212-801-2256

**Fax:** 212-805-5571

**Correspondent e-mail:** [gtipmail@gtlaw.com](mailto:gtipmail@gtlaw.com) [octm@gtlaw.com](mailto:octm@gtlaw.com) [schlossd@gtlaw.com](mailto:schlossd@gtlaw.com) [biancoc@gtlaw.com](mailto:biancoc@gtlaw.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

## Prosecution History

Date	Description	Proceeding Number
Mar. 08, 2022	EXTENSION OF TIME TO OPPOSE RECEIVED	
Mar. 08, 2022	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Mar. 08, 2022	PUBLISHED FOR OPPOSITION	
Feb. 16, 2022	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Feb. 01, 2022	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 22, 2022	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jan. 21, 2022	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jan. 21, 2022	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jan. 21, 2022	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jan. 21, 2022	NON-FINAL ACTION E-MAILED	6325
Jan. 21, 2022	NON-FINAL ACTION WRITTEN	69197



Jan. 20, 2022 ASSIGNED TO EXAMINER  
Aug. 21, 2021 NOTICE OF DESIGN SEARCH CODE E-MAILED  
Aug. 20, 2021 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM  
May 28, 2021 NEW APPLICATION ENTERED IN TRAM

69197

## TM Staff and Location Information

### TM Staff Information

TM Attorney: BLOHM, LINDA E

Law Office Assigned: LAW OFFICE 110

### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 03, 2022

## Proceedings

### Summary

Number of Proceedings: 1

### Type of Proceeding: Extension of Time

Proceeding Number: [90734285](#)

Filing Date: Mar 08, 2022

Status: Extension of Time to Oppose Filed

Status Date: Mar 08, 2022

Interlocutory Attorney:

### Defendant

Name: PRL USA Holdings, Inc.

Correspondent Address: DANIEL I. SCHLOSS  
GREENBERG TRAURIG LLP  
ONE VANDERBILT AVENUE  
NEW YORK NY UNITED STATES , 10017

Correspondent e-mail: [gtipmail@gtlaw.com](mailto:gtipmail@gtlaw.com) , [octm@gtlaw.com](mailto:octm@gtlaw.com) , [schlossd@gtlaw.com](mailto:schlossd@gtlaw.com) , [biancoc@gtlaw.com](mailto:biancoc@gtlaw.com)

### Associated marks

Mark	Application Status	Serial Number	Registration Number
ENJOY A CUP OF RALPH'S COFFEE JAVA & MOCHA RALPH LAUREN N.Y.C.	Request For Extension of Time to File Opposition	<a href="#">90734285</a>	

### Potential Opposer(s)

Name: RALPH'S FAMOUS ITALIAN ICES FRANCHISE CORP.

Correspondent Address: DAVID L. MAY  
NIXON PEABODY LLP  
799 9TH STREET NW, SUITE 500  
WASHINGTON DC UNITED STATES , 20001

Correspondent e-mail: [nptm@nixonpeabody.com](mailto:nptm@nixonpeabody.com) , [jpsihoules@nixonpeabody.com](mailto:jpsihoules@nixonpeabody.com) , [nptm@nixonpeabody.com](mailto:nptm@nixonpeabody.com) , [dmay@nixonpeabody.com](mailto:dmay@nixonpeabody.com)

### Prosecution History

Entry Number	History Text	Date	Due Date
4	EXT GRANTED	Jun 17, 2022	
3	FINAL 60-DAY REQUEST TO EXT TIME TO OPPOSE	Jun 17, 2022	
2	EXT GRANTED	Mar 08, 2022	
1	FIRST 90-DAY REQUEST TO EXT TIME TO OPPOSE	Mar 08, 2022	