

ESTTA Tracking number: **ESTTA1244570**

Filing date: **10/28/2022**

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	WONDERFUL CITRUS LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	11444 WEST OLYMPIC BLVD. LOS ANGELES, CA 90064 UNITED STATES		

Correspondence information	DANIELLE M. CRIONA, ESQ. SPECIAL COUNSEL, IP ROLL LAW GROUP P.C. 11444 WEST OLYMPIC BLVD., 7TH FLOOR LOS ANGELES, CA 90064 UNITED STATES Primary email: danielle.criona@roll.com Secondary email(s): ipdocketing@roll.com 310-966-8771		
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**Applicant information**

Application no.	97047364	Publication date	10/04/2022
Opposition filing date	10/28/2022	Opposition period ends	11/03/2022
Applicant	Flavorful Brands, LLC 999 CORPORATE DRIVE LADERA RANCH, CA 92694 UNITED STATES		

**Goods/services affected by opposition**

Class 031. First Use: Jun 30, 2020 First Use In Commerce: Jun 30, 2020 All goods and services in the class are opposed, namely: Fresh onions
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**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.	1667787	Application date	12/10/1990
Register	Principal		
Registration date	12/10/1991	Foreign priority date	NONE
Word mark	ULTIMATE		

Design mark	
Description of mark	NONE
Goods/services	Class 031. First use: First Use: Nov 1950 First Use In Commerce: Nov 1950 fresh citrus fruit

U.S. registration no.	5161708	Application date	04/09/2015
Register	Principal		
Registration date	03/14/2017	Foreign priority date	NONE

Word mark	ULTIMATE SWEET CALIFORNIA RED GRAPEFRUIT
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Description of mark	The mark consists of "Ultimate Sweet California Red Grapefruit" with a ribbon in the forefront of a piece of fruit.
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Goods/services	Class 031. First use: First Use: Apr 7, 2016 First Use In Commerce: Apr 7, 2016 Fresh citrus fruits; Fresh fruit
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Attachments	86592906#TMSN.png( bytes ) THE ULTIMATE ONION and Des 97047364 213473 OPP.pdf(134139 bytes )
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Signature	/Danielle M. Criona/
Name	Danielle M. Criona, Esq.
Date	10/28/2022

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

WONDERFUL CITRUS LLC,	)	Opposition No.: _____
	)	
Opposer,	)	Mark: THE ULTIMATE ONION! & Design
	)	
v.	)	
	)	
FLAVORFUL BRANDS, LLC,	)	Application Ser. No.: 97047364
	)	
Applicant.	)	Published in the <i>Official Gazette</i>
	)	on October 4, 2022
	)	
	)	<b>NOTICE OF OPPOSITION</b>

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Wonderful Citrus LLC, a Delaware limited liability company located and doing business at 11444 West Olympic Blvd., Los Angeles, CA 90064 (“Opposer”), believes it will be damaged by the registration of THE ULTIMATE ONION! & Design (the “Applicant’s THE ULTIMATE ONION! & Design Mark”), as set forth in Application Serial No. 97047364 filed on September 27, 2021 (the “Application”) in Class 31 for “Fresh onions” (“Applicant’s Goods”), filed by Flavorful Brands, LLC, a Delaware limited liability company, (“Applicant”), with an address of 999 Corporate Drive, Ladera Ranch, California 92694, and hereby opposes the same.

As grounds for this Opposition, Opposer alleges:

1. Opposer is the largest grower and processor of citrus fruits in the United States, cultivating and harvesting more than 40,000 acres of fresh citrus, including but not limited to, clementine/mandarins, Navel and Valencia oranges, lemons, minneolas, grapefruit, limes and others.
2. Opposer is the owner of United States trademark registrations comprising of, or containing, ULTIMATE in International Class 31, which include the following (the “ULTIMATE® Marks”):

TRADEMARK	APPLICATION/ REGISTRATION	CLASS/GOODS
ULTIMATE	Reg. No. 1667787	Class 31: Fresh citrus fruit
ULTIMATE SWEET CALIFORNIA RED GRAPEFRUIT & Design	Reg. No. 5161708	Class 31: Fresh citrus fruits; fresh fruit

3. The above registrations are valid, subsisting and Opposer hereby gives notice in accordance with Trademark Rules of Practice 2.122(d)(2) that it will rely thereon as evidence in this proceeding, and status copies showing present title to the registrations will be introduced into evidence on its behalf during Opposer's testimony period.

4. Opposer has sold a significant amount of goods in connection with the ULTIMATE® Marks.

5. Opposer and its predecessors have advertised and promoted its products sold in connection with the ULTIMATE® Marks throughout the United States.

6. By virtue of the recognition of Opposer's goods offered in connection with the ULTIMATE® Marks, Opposer has built and owns valuable goodwill symbolized by, and associated with, the ULTIMATE® Marks.

7. The ULTIMATE® Marks are inherently distinctive as used in connection with Opposer's products or, in the alternative, have acquired distinctiveness due its secondary meaning.

8. Any use by Applicant of the Applicant's THE ULTIMATE ONION! & Design Mark on Applicant's Goods is without Opposer's consent or permission.

9. Applicant's Application was published on October 4, 2022, and an Opposition to Applicant's Application must be filed by November 3, 2022. Therefore, this Notice of Opposition is being timely filed.

## COUNT I – LIKELIHOOD OF CONFUSION

10. Opposer incorporates its allegations of Paragraphs 1 through 9 herein by reference.

11. The Applicant's THE ULTIMATE ONION! & Design Mark so closely resembles the ULTIMATE® Marks as to be likely, when used on or in connection with Applicant's Goods, to cause confusion, to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), as amended. The Applicant's THE ULTIMATE ONION! & Design Mark also conveys the same commercial impression as the ULTIMATE® Marks.

12. Applicant's Goods are similar and/or related to the goods used in connection with the ULTIMATE® Marks. Applicant's use and registration of the Applicant's THE ULTIMATE ONION! & Design Mark in connection with Applicant's Goods is likely to cause confusion, deception and/or mistake among the relevant public.

13. The purchasing public is likely to be led to believe that goods bearing the Applicant's THE ULTIMATE ONION! & Design Mark emanate from or are approved, licensed, sponsored by, or in some other way legitimately connected with or affiliated with Opposer or that Applicant and its business are owned by or are affiliated with Opposer and its business.

14. If Applicant is permitted to use the Applicant's THE ULTIMATE ONION! & Design Mark as specified in the Application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between the Applicant's THE ULTIMATE ONION! & Design Mark and the ULTIMATE® Marks. Consumers familiar with the ULTIMATE® Marks are likely to believe Applicant's Goods emanate from or are approved, licensed, sponsored by, or in some other way legitimately connected with or affiliated with Opposer, contain or promote Opposer's ULTIMATE® branded products, or that Applicant and its business are owned by or are affiliated with Opposer and its business. Furthermore, any defect, objection or

fault found with Applicant's Goods offered under the Applicant's THE ULTIMATE ONION! & Design Mark would necessarily injure Opposer's reputation and the goodwill Opposer has established in the ULTIMATE® Marks.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that Application Serial No. 97047364 be denied registration.

Please debit our Deposit Account No. 502934 for the \$600 filing fee per class and for any additional necessary fees.

The undersigned, Danielle M. Criona, is an active member of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory, and holds California Bar Membership No. 204074 with an admission date of 1999.

Please address all correspondence to Danielle M. Criona, Esq., Special Counsel, Intellectual Property, at Roll Law Group P.C., 11444 West Olympic Boulevard, 7<sup>th</sup> Floor, Los Angeles, CA 90064.

Respectfully submitted,

Date: October 28, 2022

Wonderful Citrus LLC

By: /s/ Danielle M. Criona /s/  
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