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Filing date: **10/30/2023**

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

Proceeding no.	91284522
Party	Plaintiff Rao's Specialty Foods, Inc.
Correspondence address	BASSAM N. IBRAHIM BUCHANAN INGERSOLL & ROONEY, PC 1737 KING STREET, SUITE 500 ALEXANDRIA, VA 22314 UNITED STATES Primary email: bassam.ibrahim@bipc.com 7038366620
Submission	Motion to Amend Pleading/Amended Pleading
Filer's name	Bassam N. Ibrahim
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Signature	/Bassam N. Ibrahim/
Date	10/30/2023
Attachments	FINAL - Rao Meka - motion to amend - clean.pdf(786359 bytes)

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

RE: U.S. Trademark Application Serial No. 97/251,041
Published in the *Official Gazette* on December 20, 2022

Rao’s Specialty Foods, Inc.)	
)	
Opposer,)	
)	Opposition No. 91284522
-v-)	
)	
1729 Investments LLC)	
)	
Applicant)	
)	
)	
_____)	

OPPOSER’S MOTION FOR LEAVE TO AMEND PLEADINGS

Pursuant to Rule 2.107 of the Trademark Rules of Practice, 37 C.F.R. § 2.107; Rule 15(a) of the Federal Rules of Civil Procedure; and Trademark Board Manual of Procedure ("TBMP") §§ 315 and 507, Opposer Rao’s Specialty Foods, Inc. (“Opposer” or “Rao’s”) hereby moves the Board for leave to amend its Notice of Opposition against Applicant 1729 Investments LLC (“Applicant” or “1729”) in the above-captioned proceeding (the “Opposition”) against U.S. Trademark Application Serial No. 97/251,041 (the “Application”) for the mark RAO MEKA (the “Opposed Mark” or the “RAO MEKA Mark”) in connection with “Wine” in Class 33 (“Applicant’s Goods”). Through this amendment, Opposer seeks to assert two additional claims against the Application: (i) lack of bona fide intent to use the Opposed Mark in commerce as of the Application’s filing date; and (ii) the Opposed Mark is primarily merely a surname. These

claims are consistent with Opposer's pleadings in a related proceeding, Opposition No. 91287521, recently filed against 1729's application for RAO'S.¹

In accordance with TBMP § 507, a signed copy of the proposed Amended Notice of Opposition is attached as Exhibit A, and a redlined copy of the Amended Notice of Opposition showing the proposed changes from the original Notice of Opposition is attached as Exhibit B. Opposer sought Applicant's consent to the requested amendments through Applicant's counsel, but did not receive a response.

I. **Factual Background**

Opposer filed the present Notice of Opposition against the RAO MEKA Application on April 18, 2023, which Applicant answered on May 22, 2023. 1-2 TTABVUE. In the original notice, Opposer asserted one claim against the Application, namely, likelihood of confusion with its prior RAO-formative marks. *Id.* During the discovery conference, the parties agreed to extend discovery deadlines to allow time for settlement discussions. *See* 5-8 TTABVUE. The parties engaged in settlement talks over the summer concerning Applicant's RAO MEKA mark, as well as another published application by 1729, U.S. Ser. No. 90694523 for the mark RAO'S.² The parties ended settlement negotiations in late August after they were unable to reach an agreement and are now moving forward with discovery in this proceeding under the current scheduling order. *See* 7-8 TTABVUE.

¹ If the present motion is granted, Opposer will be asserting the same claims against 1729's applications for both the RAO'S and the RAO MEKA marks.

² Through U.S. Ser. No. 90694523, Applicant seeks registration of the mark RAO'S in connection with "Wine produced from grapes grown in a single designated vineyard in the Atlas Peak American Viticultural Area, in accordance with specific standards; all of the foregoing sold at the vineyard, wine specialty stores, and direct to consumers; none of the foregoing sold in restaurants." The RAO'S application published for opposition on July 4, 2023 and, on or around July 17, Opposer obtained an extension of time to oppose the RAO'S mark until November 1, 2023. *See* <https://ttabvue.uspto.gov/ttabvue/v?pno=90694523&pty=EXT>.

Discovery in the present proceeding is in the very early stages. Both parties served their initial disclosures on September 25, 2023 and Opposer served its first set of written discovery on October 5, 2023 (the “Pending Discovery Requests”). Applicant has not yet served any written discovery requests or responded to Opposer’s Pending Discovery Requests. Neither party has noticed or taken any depositions in this proceeding. Under the current schedule, discovery is not scheduled to close until February 22, 2024 and Opposer’s pretrial disclosures are not due until April 7, 2024. *See* 7-8 TTABVUE.

After settlement discussions ended, Opposer also filed a Notice of Opposition against 1729’s application for the RAO’S mark on October 5, 2023, which Applicant has not yet answered. *See* Opposition No. 91287521 (the “RAO’S Opposition”) at 1 TTABVUE.³ While researching the RAO’S Opposition, Opposer learned of facts to support two additional grounds of refusal against the RAO MEKA Mark, namely, lack of bona fide intent and the mark is primarily merely a surname. *See* Exhibits A-B.⁴ As a result, Opposer is now timely seeking to amend its Notice of Opposition to assert both claims through the present motion. *Id.* Opposer has also served written discovery that is relevant to both claims through its Pending Discovery Requests.

On October 16, 2023, Opposer requested Applicant’s consent to amend the pleadings as sought herein. Applicant has not responded to Opposer’s requests, leading to the filing of the present motion.

³ A copy of the Notice of Opposition filed by Opposer in Opposition No. 91287521 is accessible at <https://ttabvue.uspto.gov/ttabvue/v?pno=91287521&pty=OPP&eno=1>.

⁴ Opposer has also asserted claims for likelihood of confusion, lack of bona fide intent, and primarily merely a surname in the RAO’S Opposition.

II. Statement of Law

The Board looks favorably on motions to amend and liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law, would be prejudicial to the rights of the adverse party, or parties, or would be futile. *See* 37 C.F.R. § 2.107; Fed. R. Civ. P. 15(a); TBMP § 507.02; *see also, e.g., Karsten Manufacturing Corp. v. Editoy AG*, 79 USPQ2d 1783, 1785 (TTAB 2006). This is so even when a plaintiff seeks to amend its complaint to plead additional claims other than those stated in the original complaint. *See, e.g., Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503 (TTAB 1993) (allowing opposer to add the claim that applicant did not have a bona fide intention to use the mark in commerce on the specified goods and services when it filed several applications).

III. Argument

In the present case, entry of the requested amendments will promote justice and will not be unduly prejudicial to any rights of Applicant. As set forth below, the proceeding is early in discovery, support for the claims was discovered after the proceeding was filed, and the claims concern subject matter already in Applicant's possession. Moreover, the proposed claims are sufficiently pled and consistent with settled law. Thus, consistent with TTAB precedent and the liberal standard governing requests to amend, the Board should grant Opposer leave to amend its Notice of Opposition.

a. The Motion is Timely Made and Will Not Unduly Prejudice Applicant

“The timing of a motion for leave to amend under Fed. R. Civ. P. 15(a) plays a large role in the Board's determination of whether the adverse party would be prejudiced by allowance of the proposed amendment.” TBMP § 507.02(a); *see also Marshall Field & Co. v. Mrs. Field's*

Cookies, 11 USPQ2d 1355, 1359 (TTAB 1989) (“concept of ‘undue delay’ is inextricably linked with the concept of prejudice to the nonmoving party”). In the present case, Opposer’s motion to amend is being filed in the very early stages of the discovery phase of the proceeding and was filed without undue delay, both factors which strongly favor granting leave to amend.

As set forth above, discovery is still in the earliest stages and is not scheduled to close for several months. Opposer has served its first set of discovery (the Pending Discovery Requests), while Applicant has not yet served any written discovery. Currently, no depositions have been noticed or taken in this proceeding.

Moreover, there can be no question of undue delay. Opposer only recently discovered facts to support the amended claims while preparing the RAO’S Opposition, which was filed on October 5, 2023. That same day, Opposer served the Pending Discovery Requests seeking discovery that is relevant to both the current and amended claims, but has not yet received Applicant’s responses. On October 16, 2023, Opposer requested Applicant’s consent to the proposed amendments and timely filed the present motion after Applicant failed to respond.

Following Fed. R. Civ. P. 15(a), the Board generally grants motions to amend that are filed during the pre-trial phase, particularly when they are filed during the early stages of discovery. *See, e.g., Commodore Elecs.*, 26 USPQ2d at 1505-06 (granting motion to add claim of lack of bona fide intent; no prejudice or undue delay as discovery was still open when motion was filed); *Focus 21 International Inc. v. Pola Kasei Kogyo Kabushiki Kaisha*, 22 USPQ2d 1316, 1318 (TTAB 1992) (motion to add a claim of abandonment to the pleadings permitted; no prejudice as motion filed prior to opening of petitioner's testimony period); *see also Valvoline Licensing & Intellectual Property LLC v. Sunpoint International Group USA Corp.*, 2021 USPQ2d 785 (T.T.A.B. 2021) (motion to amend granted where filed early in the proceeding);

United States Olympic Committee v. O-M Bread Inc., 26 USPQ2d 1221, 1222 (TTAB 1993) (motion to amend granted; applicant not prejudiced because proceeding still in pre-trial phase); *Mack Trucks, Inc. v. Monroe Auto Equip. Co.*, 182 USPQ 511, 512 (TTAB 1974) (applicant would not be unduly prejudiced by granting leave to amend since no testimony has yet been taken). Thus, under governing precedent, the timing of Opposer's request strongly supports granting its request for leave to amend and confirms that there will be no undue prejudice against Applicant.

The nature of the amended claims also confirms that there will be no undue prejudice to Applicant by granting the requested leave to amend. In particular, the proposed additional claims are directed towards the meaning of Applicant's RAO MEKA Mark and Applicant's intent at the time the Application was filed. As such, both claims are within the scope of discovery and concern subject matter uniquely in the Applicant's possession and for which Applicant can be expected to have relevant information in hand. *See, e.g., Glad Products Co. v. Illinois Tool Works Inc.*, 62 USPQ2d 1538, 1539 (T.T.A.B. 2002) (granting motion to amend where amended claims "concern things within the knowledge of [respondent]").

In short, Opposer's request is timely made and Applicant will suffer no prejudice if the Board permits Opposer to amend its Notice of Opposition as proposed.

b. The Amended Claims are Sufficiently Pled and Not Futile

Moreover, as pleaded, Opposer's proposed amended claims are legally sufficient and not futile. *See* Exhibits A-B. Both claims are established legal grounds for opposition, are supported by sufficient factual allegations to state a claim, and are consistent with settled law. *Id.* In particular, as to the proposed claim that RAO MEKA is primarily merely a surname, Opposer has pled that the primary significance of the term RAO MEKA to the purchasing public is that of a

surname and has pled factual allegations to support it. *Id.* at ¶¶ 33 – 53. Similarly, as to the second claim, Opposer has pled that Applicant lacked a bona fide intent to use Applicant’s RAO MEKA Mark in commerce at the time the Application was filed and has supported the claim with numerous factual allegations, including that Applicant lacked the capacity, expertise, and/or infrastructure to produce and distribute Applicant’s Goods at the time the Application was filed. *Id.* at ¶¶ 54 – 70.

Therefore, as set forth above, the Board should grant Opposer’s leave to amend because the proposed amendments are sufficiently pled and not futile; its request was timely made during the beginning of the discovery period; and the requested amendments will not unduly prejudice Applicant.

IV. **Conclusion**

For the foregoing reasons, Opposer respectfully requests that the Board grant this motion and permit it to amend its Notice of Opposition as shown in the proposed Amended Notice of Opposition submitted as Exhibit A.

Respectfully submitted,

RAO’S SPECIALTY FOODS, INC.



Date: October 30, 2023

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Certificate of Service

I hereby certify that a true copy of the foregoing **OPPOSER'S MOTION FOR LEAVE TO AMEND PLEADINGS** was served this 30th day of October, 2023, by electronic mail on:

Randy Michels
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798 BERRY ROAD #41400
NASHVILLE, TENNESSEE 37204
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/Soenya Randolph/

Soenya Randolph

EXHIBIT A

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

RE: U.S. Trademark Application Serial No. 97/251,041
Published in the *Official Gazette* on December 20, 2022

Rao’s Specialty Foods, Inc.)	
)	
Opposer,)	
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-v-)	
)	
1729 Investments LLC)	
)	
Applicant)	
)	
)	
_____)	

AMENDED NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Commissioner:

In the matter of U.S. Trademark Application Serial No. 97/251,041 (the “Opposed Application”), filed on February 2, 2022 by 1729 Investments LLC (“Applicant” or “1729”), to register the mark RAO MEKA (“Applicant’s RAO MEKA Mark”) in connection with “Wine” in Class 33 (collectively, “Applicant’s Goods”), and published in the *Official Gazette* on December 20, 2022, Opposer Rao’s Specialty Foods, Inc. (“Opposer” or “Rao’s”) believes that it will be damaged by registration of Applicant’s RAO MEKA Mark and hereby opposes same. The grounds for this opposition are as follows:

1. Upon information and belief, Applicant is the owner of record of the Opposed Application for Applicant’s RAO MEKA Mark in connection with Applicant’s Goods.

2. Upon information and belief, Applicant is also the owner of U.S. Ser. No. 90/694,523 for the mark RAO'S in connection with "wine" in Class 33, which has been refused registration and is currently on *ex parte* appeal before the Trademark Trial and Appeal Board (TTAB).

3. Upon information and belief, Applicant filed the Opposed Application on February 2, 2022 under Section 1(b), claiming an intent to use the trademark in commerce.

4. Upon information and belief, Applicant is not currently using Applicant's RAO MEKA Mark in connection with Applicant's Goods in commerce.

5. Opposer Rao's Specialty Foods, Inc. is a New York corporation with a primary business address of 441 Bloomfield Avenue, Montclair, New Jersey 07042.

6. Opposer is the owner of prior and superior rights in the mark RAO'S and a family of RAO-formative marks (hereinafter, collectively, "Opposer's RAO'S Marks").

7. Since at least as early as 1992, Opposer has been using Opposer's RAO'S Marks in connection with pasta sauce, olive oil, vinegars, pasta, soup, frozen food items, and related food products (hereinafter, collectively, "Opposer's Goods") in commerce in the United States.


8. Opposer's pasta sauces, which are marketed under the RAO'S trademark, are the leading brand of premium pasta sauces around the world.


9. Rao's is continuously expanding the products it offers under Opposer's RAO'S Marks in the food and beverage sector.

10. In addition to its prior and continuous common law rights, Opposer is also the owner of numerous prior registrations and prior pending applications for Opposer's RAO'S Marks in connection with Opposer's Goods.

11. Opposer is the owner of the U.S. trademark registrations for Opposer's RAO'S

Marks in connection with Opposer's Goods, as set forth in the chart below:

Trademark	Reg. No.	Filing Date	Date of First Use	Goods Description	Status
RAO'S	3576143	August 20, 2008	September 16, 1992	Class 29: Canned tomatoes; Edible oils; Olive oil; Preserved vegetables (in oil); Processed peppers	Registered and incontestable
RAO'S	3576144	August 20, 2008	September 16, 1992	Class 30: pasta, pasta sauce, marinades, vinegar, wine vinegar, salad dressings	Registered and incontestable
	3863034	November 18, 2009	September 16, 1992	Class 29: roasted peppers, grilled vegetables, canned or bottled vegetables Class 30: pastas, spaghetti, pasta sauces, spaghetti sauce, sauces	Registered and incontestable
RAO'S HOMEMADE	2933302	March 16, 2004	December 31, 2003	Class 30: Coffee	Registered and incontestable
RAO'S	5874730	March 15, 2017	June 10, 2019	Class 29: Refrigerated pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; charcuterie; cheese; soup Class 30: refrigerated pre-packaged entrees consisting primarily of pasta; frozen pre-packaged entrees consisting primarily of pasta; refrigerated pasta; gelato; tiramisu; cheesecakes; cookies; pastries; cakes	Registered

Trademark	Reg. No.	Filing Date	Date of First Use	Goods Description	Status
RAO'S	5857890	March 15, 2017	June 10, 2019	Class 29: Refrigerated pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; charcuterie; cheese; soup Class 30: refrigerated pre-packaged entrees consisting primarily of pasta; frozen pre-packaged entrees consisting primarily of pasta; refrigerated pasta; gelato; tiramisu; cheesecakes; cookies; pastries; cakes	Registered
	5683515	January 16, 2018	November, 2017	Class 30: Sauces	Registered
RAO'S	5747421	March 15, 2017	2002	Class 29: Edible oils; processed vegetables Class 30: Sauces; marinades; salad dressings	Registered
RAO'S HOMEMADE	5747424	March 15, 2017	2002	Class 29: Edible oils; processed vegetables Class 30: Sauces; marinades; salad dressings	Registered

Trademark	Reg. No.	Filing Date	Date of First Use	Goods Description	Status
RAO'S	5747425	March 15, 2017	2002	Class 29: Edible oils; processed vegetables Class 30: Sauces; marinades; salad dressings	Registered
RAO'S MADE FOR HOME	6421566	August 23, 2019	March 28, 2020	Class 29: Processed vegetables; packaged entrees consisting primarily of meat, fish, poultry or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; soup Class 30: Sauces; pasta; frozen pre-packaged entrees consisting primarily of pasta	Registered

12. Copies of current USPTO records showing that the trademark registrations set forth in Paragraph 10 above are valid and subsisting are attached hereto as Exhibit A.

13. Commencing long prior to the filing date of the Opposed Application and/or any use by Applicant of Applicant's RAO MEKA Mark, Opposer has been and continues to use Opposer's RAO'S Marks in connection with Opposer's Goods.

14. Due to Opposer's longstanding and continuous use and extensive advertising of Opposer's RAO'S Marks in connection with Opposer's Goods, Opposer's RAO'S Marks have become well known to consumers as exclusively designating Opposer and/or Opposer's Goods throughout the United States.

15. Through Opposer's longstanding and continuous use and extensive advertising of Opposer's RAO'S Marks in connection with Opposer's Goods, Opposer has developed substantial

and exclusive goodwill and an excellent reputation throughout the United States in connection with Opposer's RAO'S Marks and Opposer's Goods sold under Opposer's RAO'S Marks.

Count I
Likelihood of Confusion

16. Applicant incorporates by reference the foregoing paragraphs as if fully stated herein.

17. Applicant's RAO MEKA Mark in the Opposed Application is confusingly similar to Opposer's RAO'S Mark in appearance, pronunciation, connotation, and commercial impression.

18. The dominant portion of both Applicant's RAO MEKA Mark and Opposer's RAO'S Marks are the shared portion, RAO, and the marks convey the same commercial impression.

19. Upon information and belief, Applicant's Goods are closely related to Opposer's Goods.

20. Upon information and belief, Applicant's Goods and Opposer's Goods are commonly marketed by a single source under the same trademark.

21. Upon information and belief, consumers are accustomed to seeing Applicant's Goods and Opposer's Goods offered under the same mark by a single source, thereby creating a likelihood of confusion.

22. Upon information and belief, Applicant's Goods and Opposer's Goods are complimentary products that are likely to be marketed together to consumers.

23. There are no limitations in either Applicant's or Opposer's identifications of goods as to trade channels and/or purchasers and therefore it is presumed that the goods travel in all their normal channels of trade and that they are purchased by the same classes of purchasers.

24. Upon information and belief, Applicant's Goods and Opposer's Goods are intended to be marketed and sold to the same class of consumers, namely, the public at large.

25. Upon information and belief, Applicant's Goods and Opposer's Goods are intended to be marketed and sold through the same channels of trade.

26. Upon information and belief, Applicant's Goods and Opposer's Goods are intended to be marketed and sold through the same retail channels, including without limitation, grocery stores, specialty markets, and other retail environments.

27. Upon information and belief, Applicant filed the Opposed Application for Applicant's RAO MEKA Mark with full knowledge of Opposer's prior and continuous rights in Opposer's RAO'S Marks.

28. Upon information and belief, Applicant adopted Applicant's RAO MEKA Mark with the intent to trade off the extensive good will associated with Opposer's RAO'S Marks.

29. Applicant's RAO MEKA Mark in the Opposed Application so resembles Opposer's RAO'S Marks as to be likely, when applied to Applicant's Goods, to cause confusion, to cause mistake, or to deceive, and to create the erroneous impression that Applicant's Goods originate from or are associated with Opposer, or that Applicant's Goods are authorized, endorsed or sponsored by Opposer.

30. Applicant's filing of the Opposed Application for Applicant's RAO MEKA Mark was without license, authorization or permission from Opposer.

31. The granting of a trademark registration for Applicant's RAO MEKA Mark would violate and diminish the exclusive and superior rights of Opposer in Opposer's RAO'S Marks in violation of 15 U.S.C. § 1052(d).

32. Opposer would be damaged if the Opposed Application is allowed to register because Applicant would obtain statutory rights in Applicant's RAO MEKA Mark in violation and derogation of the established prior rights of Opposer in Opposer's RAO'S Marks.

Count II
Primarily Merely a Surname

33. Applicant incorporates by reference the foregoing paragraphs as if fully stated herein.

34. Applicant's RAO MEKA Mark is primarily merely a surname under Section 2(e)(4) of the Lanham Act, 15 U.S.C. 1051, 1052 *et seq.*

35. When Applicant's RAO MEKA Mark is viewed in relation to Applicant's Goods, the primary significance of RAO MEKA to the purchasing public is that of a surname.

36. RAO is a commonly recognized surname and is a common last name in the United States.

37. MEKA is also a commonly recognized surname and is a common last name in the United States.

38. When the RAO MEKA Mark is considered a whole, it has the commercial impression of a compound surname.

39. Compound surnames are surnames combined of more than one word.

40. Compound surnames may be used with or without a hyphen.

41. Compound surnames are commonly used in the United States and throughout the world.

42. According to Applicant, RAO MEKA identifies a living individual, namely, Muktheswara Rao Meka.

43. Upon information and belief, Muktheswara Rao Meka is the owner and founder of Applicant.

44. Upon information and belief, as used in the name of Applicant's owner, Muktheswara Rao Meka, RAO MEKA has the commercial impression of a compound surname.

45. Upon information and belief, relatives and family members of Applicant's owner, Muktheswara Rao Meka, also use RAO MEKA as their surname.

46. Upon information and belief, RAO MEKA is not a rare surname.

47. Upon information and belief, individuals throughout the United States also use RAO MEKA as a surname.

48. Applicant's RAO MEKA Mark has the structure and pronunciation of a compound surname.

49. As used by Applicant, the term RAO MEKA does not have any recognized significance other than as a compound surname.

50. The term RAO MEKA does not have an ordinary language meaning other than as a surname.

51. When considered as a whole, the primary significance of Applicant's RAO MEKA Mark to the purchasing public is that of a surname.

52. The purchasing public will view Applicant's RAO MEKA Mark as primarily merely a surname when the mark is considered as a whole.

53. Opposer would be damaged if the Opposed Application is allowed to register because Applicant would obtain statutory rights in Applicant's RAO MEKA Mark in violation and derogation of the established prior rights of Opposer in Opposer's RAO'S Marks.

Count III
Lack of Bona Fide Intent

54. Applicant incorporates by reference the foregoing paragraphs as if fully stated herein.

55. Upon information and belief, at the time Applicant filed the Opposed Application on February 2, 2022, it did not have a bona fide intent to use Applicant's RAO MEKA Mark in the United States in connection with Applicant's Goods.

56. Upon information and belief, Applicant has never used Applicant's RAO MEKA Mark in connection with Applicant's Goods.

57. Upon information and belief, Applicant does not own an active vineyard or winery capable of producing wine.

58. Upon information and belief, Applicant did not own an active vineyard or winery capable of producing wine at the time the Opposed Application was filed on February 2, 2022.

59. Upon information and belief, Applicant does not have a website or web page associated with Applicant's RAO MEKA Mark.

60. Upon information and belief, Applicant does not have social media pages associated with Applicant's RAO MEKA Mark.

61. Upon information and belief, Applicant has no professional experience in the wine industry.

62. Upon information and belief, Applicant is not currently producing wine.

63. Upon information and belief, Applicant was not producing wine at the time the Opposed Application was filed on February 2, 2022.

64. Upon information and belief, Applicant does not have the capacity to produce wine.

65. Upon information and belief, Applicant does not have the capacity to produce wine from grapes grown in a single designated vineyard in the Atlas Peak American Viticultural Area, in accordance with specific standards.

66. Upon information and belief, Applicant did not have the capacity to produce wine at the time the Opposed Application was filed on February 2, 2022.

67. Upon information and belief, Applicant did not have the capacity to produce wine from grapes grown in a single designated vineyard in the Atlas Peak American Viticultural Area, in accordance with specific standards, at the time the Opposed Application was filed on February 2, 2022.

68. Upon information and belief, Applicant had not entered into any contracts for the production of Applicant's Goods under Applicant's Mark at the time the Opposed Application was filed on February 2, 2022.

69. Upon information and belief, Applicant did not have a bona fide intent to use Applicant's RAO'S Mark in connection with Applicant's Goods at the time the Opposed Application was filed, but instead merely sought to reserve a right in the mark.

70. Opposer would be damaged if the Opposed Application is allowed to register because Applicant would obtain statutory rights in Applicant's RAO'S Mark in violation and derogation of the established prior rights of Opposer in Opposer's RAO'S Marks.

WHEREFORE, Opposer requests that its Opposition be sustained, that the Opposed Application for registration of Applicant's RAO MEKA Mark be refused, and for such other relief as may be deemed just and proper.

Respectfully submitted,

RAO'S SPECIALTY FOODS, INC.



Date: October 30, 2023

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Exhibit A



United States Patent and Trademark Office

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Word Mark	RAO'S
Goods and Services	IC 029. US 046. G & S: Canned tomatoes; Edible oils; Olive oil; Preserved vegetables (in oil); Processed peppers. FIRST USE: 19920916. FIRST USE IN COMMERCE: 19920916
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Trademark Search Facility Classification Code	NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks SHAPES-COLORS-2 Design listing or lined for two colors
Serial Number	77551242
Filing Date	August 20, 2008
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 2, 2008
Registration Number	3576143
Registration Date	February 17, 2009
Owner	(REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bassam N. Ibrahim
Prior Registrations	2670863
Description of Mark	The color(s) Red and Dark Brown is/are claimed as a feature of the mark. The mark consists of stylized letters "RAO'S". The red color is the prominent (foreground) color of the stylized letters and the dark brown color is the shadow color for the stylized letters located behind the red color.
Type of Mark	TRADEMARK

Register PRINCIPAL-2(F)
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20190301.
Renewal 1ST RENEWAL 20190301
Live/Dead Indicator LIVE

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Word Mark	RAO'S
Goods and Services	IC 030. US 046. G & S: pasta, pasta sauce, marinades, vinegar, wine vinegar, salad dressings. FIRST USE: 19920916. FIRST USE IN COMMERCE: 19920916
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Trademark Search Facility Classification Code	NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks SHAPES-COLORS-2 Design listing or lined for two colors
Serial Number	77551280
Filing Date	August 20, 2008
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 2, 2008
Registration Number	3576144
Registration Date	February 17, 2009
Owner	(REGISTRANT) Rao's Specialty Foods, Inc CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bassam N. Ibrahim
Description of Mark	The color(s) red and dark brown is/are claimed as a feature of the mark. The mark consists of stylized letters "RAO'S". The red color is the prominent (foreground) color of the stylized letters and the dark brown color is the shadow color for the stylized letters located behind the red color.
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20190301.

Renewal 1ST RENEWAL 20190301
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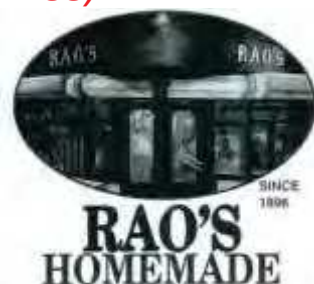
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Word Mark	RAO'S HOMEMADE SINCE 1896
Goods and Services	IC 029. US 046. G & S: roasted peppers, [sun dried peppers, canned tomatoes,] grilled vegetables, canned or bottled vegetables [, olive oils]. FIRST USE: 19920916. FIRST USE IN COMMERCE: 19920916 IC 030. US 046. G & S: pastas, [noodles,] spaghetti, pasta sauces, spaghetti sauce, [flavoured vinegar, balsamic vinegar,] [marinades, salad dressings,] sauces [, vinaigrettes, vinegars]. FIRST USE: 19920916. FIRST USE IN COMMERCE: 19920916
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	07.03.06 - Art galleries ; Bars, cocktail Lounge ; Delicatessens ; Discos ; Drive-in-theaters ; Galleries, art ; Grocery stores ; Restaurants ; Service stations ; Stores (building) ; Supermarket ; Theaters 26.03.21 - Ovals that are completely or partially shaded
Trademark Search Facility Classification Code	ART-07.07 Exteriors and Exterior parts of dwelling ART-09.01 Textiles other than clothing BLDG-AND-SCEN A type of building or a type of scenery HUM Accurate representation of a human form, or any portion of a human form NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks NUM-26-UP 1896 Other Numerals - 26 and Up SHAPES-BAR-BANDS Designs with bar, bands or lines SHAPES-OVALS Oval figures or designs including incomplete ovals and one or more ovals
Serial Number	77875449
Filing Date	November 18, 2009
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	August 3, 2010
Registration Number	3863034
International Registration	1024433

Number**Registration Date** October 19, 2010**Owner** (REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair
NEW JERSEY 07042**Assignment
Recorded** ASSIGNMENT RECORDED**Attorney of
Record** Bassam N. Ibrahim**Prior
Registrations** 1793249;1990486;2635671;AND OTHERS**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOMEMADE" AND "SINCE 1896" APART
FROM THE MARK AS SHOWN**Description of
Mark** Color is not claimed as a feature of the mark. The mark consists of the words "RAO'S HOMEMADE SINCE
1896" with a design of the front of a restaurant which shows the word "RAO'S" displayed on two sides of the
restaurant above the awnings of the restaurant. Also shown on the restaurant design are windows with blinds
and doors. Depictions of people appear through the windows and doors. The restaurant design is contained in
an oval shape with the words "SINCE 1896" appearing to the bottom right of the oval and with the words
"RAO'S HOMEMADE" appearing directly underneath the oval.**Type of Mark** TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20201005.**Renewal** 1ST RENEWAL 20201005**Live/Dead
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Word Mark	RAO'S HOMEMADE
Goods and Services	IC 030. US 046. G & S: coffee. FIRST USE: 20031231. FIRST USE IN COMMERCE: 20031231
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78385040
Filing Date	March 16, 2004
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 21, 2004
Registration Number	2933302
Registration Date	March 15, 2005
Owner	(REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bassam N. Ibrahim
Prior Registrations	2819390;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOMEMADE" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20140512.
Renewal	1ST RENEWAL 20140512
Live/Dead Indicator	LIVE

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Word Mark	RAO'S
Goods and Services	IC 029. US 046. G & S: Refrigerated pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; charcuterie; cheese; soup. FIRST USE: 20190610. FIRST USE IN COMMERCE: 20190610 IC 030. US 046. G & S: refrigerated pre-packaged entrees consisting primarily of pasta; frozen pre-packaged entrees consisting primarily of pasta; refrigerated pasta; gelato; tiramisu; cheesecakes; cookies; pastries; cakes. FIRST USE: 20190610. FIRST USE IN COMMERCE: 20190610
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87371868
Filing Date	March 15, 2017
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	December 26, 2017
Registration Number	5874730
Registration Date	October 1, 2019
Owner	(REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bassam N. Ibrahim
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)

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Word Mark	RAO'S
Goods and Services	IC 029. US 046. G & S: Refrigerated pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; charcuterie; cheese; soup. FIRST USE: 20190610. FIRST USE IN COMMERCE: 20190610 IC 030. US 046. G & S: Refrigerated pre-packaged entrees consisting primarily of pasta; frozen pre-packaged entrees consisting primarily of pasta; refrigerated pasta; gelato; tiramisu; cheesecakes; cookies; pastries; cakes. FIRST USE: 20190610. FIRST USE IN COMMERCE: 20190610
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	87371880
Filing Date	March 15, 2017
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	December 26, 2017
Registration Number	5857890
Registration Date	September 10, 2019
Owner	(REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bassam N. Ibrahim
Description of Mark	The color(s) red and dark brown is/are claimed as a feature of the mark. The mark consists of stylized letters "RAO'S". The red color is the prominent (foreground) color of the stylized letters and the dark brown color is the shadow color for the stylized letters located behind the red color.
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)

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Word Mark RAO'S HOMESTYLE SINCE 1896
Goods and Services IC 030. US 046. G & S: Sauces. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 02.07.03 - Groups, males and females
 07.03.06 - Art galleries ; Bars, cocktail Lounge ; Delicatessens ; Discos ; Drive-in-theaters ; Galleries, art ; Grocery stores ; Restaurants ; Service stations ; Stores (building) ; Supermarket ; Theaters
 07.07.01 - Doors ; Garage doors ; Sliding doors
 07.07.02 - Skylights ; Windows
 09.01.10 - Blinds, window ; Curtains ; Shades, windows ; Venetian blinds ; Window blinds
 26.03.21 - Ovals that are completely or partially shaded
Serial Number 87756568
Filing Date January 16, 2018
Current Basis 1A
Original Filing Basis 1A
Published for Opposition December 11, 2018
Registration Number 5683515
Registration Date February 26, 2019
Owner (REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Bassam N. Ibrahim
Prior Registrations 3576144;4575155

Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOMESTYLE" AND "SINCE 1896" APART FROM THE MARK AS SHOWN
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the words "RAO'S HOMESTYLE SINCE 1896" with a design of the front of a restaurant which shows the word "RAO'S" displayed on two sides of the restaurant above the awnings of the restaurant. Also shown on the restaurant design are windows with blinds and doors. Depictions of people appear through the windows and doors. The restaurant design is contained in an oval shape with the words "SINCE 1896" appearing to the bottom right of the oval and with the words "RAO'S HOMESTYLE" appearing directly underneath the oval.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Word Mark	RAO'S
Goods and Services	IC 029. US 046. G & S: Edible oils; processed vegetables. FIRST USE: 20020000. FIRST USE IN COMMERCE: 20020000 IC 030. US 046. G & S: Sauces; marinades; salad dressings. FIRST USE: 20020000. FIRST USE IN COMMERCE: 20020000
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	87980273
Filing Date	March 15, 2017
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	December 26, 2017
Registration Number	5747421
Registration Date	May 7, 2019
Owner	(REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bassam N. Ibrahim
Description of Mark	The color(s) red and dark brown is/are claimed as a feature of the mark. The mark consists of stylized letters "RAO'S". The red color is the prominent (foreground) color of the stylized letters and the dark brown color is the shadow color for the stylized letters located behind the red color.
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)
Live/Dead Indicator	LIVE

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RAO'S HOMEMADE

Word Mark	RAO'S HOMEMADE
Goods and Services	IC 029. US 046. G & S: Edible oils; processed vegetables. FIRST USE: 20020000. FIRST USE IN COMMERCE: 20020000
	IC 030. US 046. G & S: Sauces; marinades; salad dressings. FIRST USE: 20020000. FIRST USE IN COMMERCE: 20020000
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87980293
Filing Date	March 15, 2017
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	July 25, 2017
Registration Number	5747424
Registration Date	May 7, 2019
Owner	(REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bassam N. Ibrahim
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOMEMADE" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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RAO'S

Word Mark	RAO'S
Goods and Services	IC 029. US 046. G & S: edible oils; processed vegetables. FIRST USE: 20020000. FIRST USE IN COMMERCE: 20020000 IC 030. US 046. G & S: Sauces; marinades; salad dressings. FIRST USE: 20020000. FIRST USE IN COMMERCE: 20020000
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87980294
Filing Date	March 15, 2017
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	December 26, 2017
Registration Number	5747425
Registration Date	May 7, 2019
Owner	(REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Bassam N. Ibrahim
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)
Live/Dead Indicator	LIVE

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RAO'S MADE FOR HOME

Word Mark RAO'S MADE FOR HOME

Goods and Services IC 029. US 046. G & S: Processed vegetables; packaged entrees consisting primarily of meat, fish, poultry or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; soup. FIRST USE: 20190600. FIRST USE IN COMMERCE: 20190600

IC 030. US 046. G & S: Sauces; pasta; frozen pre-packaged entrees consisting primarily of pasta. FIRST USE: 20200328. FIRST USE IN COMMERCE: 20200328

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 88981876

Filing Date August 23, 2019

Current Basis 1A

Original Filing Basis 1B

Published for Opposition December 31, 2019

Registration Number 6421566

International Registration Number 1519836

Registration Date July 13, 2021

Owner (REGISTRANT) Rao's Specialty Foods, Inc. CORPORATION NEW YORK 441 Bloomfield Avenue Monclair NEW JERSEY 07042

Attorney of Record Bassam N. Ibrahim

Type of Mark TRADEMARK

Register PRINCIPAL

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EXHIBIT B

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

RE: U.S. Trademark Application Serial No. 97/251,041
Published in the *Official Gazette* on December 20, 2022

Rao's Specialty Foods, Inc.	—)	
	—)	
Opposer,	—)	
_____))	— Opposition No.
91284522			
-v-	—)	
_____))	
1729 Investments LLC	—)	
	—)	
Applicant	—)	
_____))	
_____	—)	

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AMENDED NOTICE OF OPPOSITION

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Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Commissioner:

In the matter of U.S. Trademark Application Serial No. 97/251,041 (the "Opposed Application"), filed on February 2, 2022 by 1729 Investments LLC ("Applicant" or "1729"), to register the mark RAO MEKA ("Applicant's RAO MEKA Mark") in connection with "Wine" in Class 33 (collectively, "Applicant's Goods"), and published in the *Official Gazette* on December 20, 2022, Opposer Rao's Specialty Foods, Inc. ("Opposer" or "Rao's") believes that it will be damaged by registration of Applicant's RAO MEKA Mark and hereby opposes same. The grounds for this opposition are as follows:

1. Upon information and belief, Applicant is the owner of record of the Opposed Application for Applicant's RAO MEKA Mark in connection with Applicant's Goods.

2. Upon information and belief, Applicant is also the owner of U.S. Ser. No. 90/694,523 for the mark RAO'S in connection with "wine" in Class 33, which has been refused registration and is currently on *ex parte* appeal before the Trademark Trial and Appeal Board (TTAB).

3. Upon information and belief, Applicant filed the Opposed Application on February 2, 2022 under Section 1(b), claiming an intent to use the trademark in commerce.

4. Upon information and belief, Applicant is not currently using Applicant's RAO MEKA Mark in connection with Applicant's Goods in commerce.

5. Opposer Rao's Specialty Foods, Inc. is a New York corporation with a primary business address of 441 Bloomfield Avenue, Montclair, New Jersey 07042.

6. Opposer is the owner of prior and superior rights in the mark RAO'S and a family of RAO-formative marks (hereinafter, collectively, "Opposer's RAO'S Marks").


7. Since at least as early as 1992, Opposer has been using Opposer's RAO'S Marks in connection with pasta sauce, olive oil, vinegars, pasta, soup, frozen food items, and related food products (hereinafter, collectively, "Opposer's Goods") in commerce in the United States.


8. Opposer's pasta sauces, which are marketed under the RAO'S trademark, are the leading brand of premium pasta sauces around the world.

9. Rao's is continuously expanding the products it offers under Opposer's RAO'S Marks in the food and beverage sector.

10. In addition to its prior and continuous common law rights, Opposer is also the owner of numerous prior registrations and prior pending applications for Opposer's RAO'S Marks in connection with Opposer's Goods.

11. Opposer is the owner of the U.S. trademark registrations for Opposer's RAO'S Marks in connection with Opposer's Goods, as set forth in the chart below:

Trademark	Reg. No.	Filing Date	Date of First Use	Goods Description	Status
RAO'S	3576143	August 20, 2008	September 16, 1992	Class 29: Canned tomatoes; Edible oils; Olive oil; Preserved vegetables (in oil); Processed peppers	Registered and incontestable
RAO'S	3576144	August 20, 2008	September 16, 1992	Class 30: pasta, pasta sauce, marinades, vinegar, wine vinegar, salad dressings	Registered and incontestable
 RAO'S HOME MADE	3863034	November 18, 2009	September 16, 1992	Class 29: roasted peppers, grilled vegetables, canned or bottled vegetables Class 30: pastas, spaghetti, pasta sauces, spaghetti sauce, sauces	Registered and incontestable
RAO'S HOME MADE	2933302	March 16, 2004	December 31, 2003	Class 30: Coffee	Registered and incontestable
RAO'S	5874730	March 15, 2017	June 10, 2019	Class 29: Refrigerated pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; charcuterie; cheese; soup Class 30: refrigerated pre-packaged entrees consisting primarily of pasta; frozen pre-packaged entrees consisting primarily of pasta; refrigerated pasta; gelato; tiramisu; cheesecakes; cookies; pastries; cakes	Registered

Trademark	Reg. No.	Filing Date	Date of First Use	Goods Description	Status
RAO'S	5857890	March 15, 2017	June 10, 2019	Class 29: Refrigerated pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; charcuterie; cheese; soup Class 30: refrigerated pre-packaged entrees consisting primarily of pasta; frozen pre-packaged entrees consisting primarily of pasta; refrigerated pasta; gelato; tiramisu; cheesecakes; cookies; pastries; cakes	Registered
 RAO'S HOMESTYLE	5683515	January 16, 2018	November, 2017	Class 30: Sauces	Registered
RAO'S	5747421	March 15, 2017	2002	Class 29: Edible oils; processed vegetables Class 30: Sauces; marinades; salad dressings	Registered
RAO'S HOMEMADE	5747424	March 15, 2017	2002	Class 29: Edible oils; processed vegetables Class 30: Sauces; marinades; salad dressings	Registered

Trademark	Reg. No.	Filing Date	Date of First Use	Goods Description	Status
RAO'S	5747425	March 15, 2017	2002	Class 29: Edible oils; processed vegetables Class 30: Sauces; marinades; salad dressings	Registered
RAO'S MADE FOR HOME	6421566	August 23, 2019	March 28, 2020	Class 29: Processed vegetables; packaged entrees consisting primarily of meat, fish, poultry or vegetables; frozen pre-packaged entrees consisting primarily of seafood, meat, fish, poultry, or vegetables; soup Class 30: Sauces; pasta; frozen pre-packaged entrees consisting primarily of pasta	Registered

12. Copies of current USPTO records showing that the trademark registrations set forth in Paragraph 10 above are valid and subsisting are attached hereto as Exhibit A.

13. Commencing long prior to the filing date of the Opposed Application and/or any use by Applicant of Applicant's RAO MEKA Mark, Opposer has been and continues to use Opposer's RAO'S Marks in connection with Opposer's Goods.

14. Due to Opposer's longstanding and continuous use and extensive advertising of Opposer's RAO'S Marks in connection with Opposer's Goods, Opposer's RAO'S Marks have become well known to consumers as exclusively designating Opposer and/or Opposer's Goods throughout the United States.

15. Through Opposer's longstanding and continuous use and extensive advertising of Opposer's RAO'S Marks in connection with Opposer's Goods, Opposer has developed substantial

and exclusive goodwill and an excellent reputation throughout the United States in connection with Opposer's RAO'S Marks and Opposer's Goods sold under Opposer's RAO'S Marks.

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Count I
Likelihood of Confusion

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16. Applicant incorporates by reference the foregoing paragraphs as if fully stated herein.

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~~16.~~17. Applicant's RAO MEKA Mark in the Opposed Application is confusingly similar to Opposer's RAO'S Mark in appearance, pronunciation, connotation, and commercial impression.

~~17.~~18. The dominant portion of both Applicant's RAO MEKA Mark and Opposer's RAO'S Marks are the shared portion, RAO, and the marks convey the same commercial impression.

~~18.~~19. Upon information and belief, Applicant's Goods are closely related to Opposer's Goods.

~~19.~~20. Upon information and belief, Applicant's Goods and Opposer's Goods are commonly marketed by a single source under the same trademark.

~~20.~~21. Upon information and belief, consumers are accustomed to seeing Applicant's Goods and Opposer's Goods offered under the same mark by a single source, thereby creating a likelihood of confusion.

~~21.~~22. Upon information and belief, Applicant's Goods and Opposer's Goods are complimentary products that are likely to be marketed together to consumers.

~~22~~23. There are no limitations in either Applicant's or Opposer's identifications of goods as to trade channels and/or purchasers and therefore it is presumed that the goods travel in all their normal channels of trade and that they are purchased by the same classes of purchasers.

~~23~~24. Upon information and belief, Applicant's Goods and Opposer's Goods are intended to be marketed and sold to the same class of consumers, namely, the public at large.

~~24~~25. Upon information and belief, Applicant's Goods and Opposer's Goods are intended to be marketed and sold through the same channels of trade.

~~25~~26. Upon information and belief, Applicant's Goods and Opposer's Goods are intended to be marketed and sold through the same retail channels, including without limitation, grocery stores, specialty markets, and other retail environments.

~~26~~27. Upon information and belief, Applicant filed the Opposed Application for Applicant's RAO MEKA Mark with full knowledge of Opposer's prior and continuous rights in Opposer's RAO'S Marks.

~~27~~28. Upon information and belief, Applicant adopted Applicant's RAO MEKA Mark with the intent to trade off the extensive good will associated with Opposer's RAO'S Marks.

~~28~~29. Applicant's RAO MEKA Mark in the Opposed Application so resembles Opposer's RAO'S Marks as to be likely, when applied to Applicant's Goods, to cause confusion, to cause mistake, or to deceive, and to create the erroneous impression that Applicant's Goods originate from or are associated with Opposer, or that Applicant's Goods are authorized, endorsed or sponsored by Opposer.

~~29~~30. Applicant's filing of the Opposed Application for Applicant's RAO MEKA Mark was without license, authorization or permission from Opposer.

~~30.~~31. The granting of a trademark registration for Applicant's RAO MEKA Mark would violate and diminish the exclusive and superior rights of Opposer in Opposer's RAO'S Marks in violation of 15 U.S.C. § 1052(d).

32. Opposer would be damaged if the Opposed Application is allowed to register because Applicant would obtain statutory rights in Applicant's RAO MEKA Mark in violation and derogation of the established prior rights of Opposer in Opposer's RAO'S Marks.

Count II
Primarily Merely a Surname

33. Applicant incorporates by reference the foregoing paragraphs as if fully stated herein.

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34. Applicant's RAO MEKA Mark is primarily merely a surname under Section 2(e)(4) of the Lanham Act, 15 U.S.C. 1051, 1052 *et seq.*

35. When Applicant's RAO MEKA Mark is viewed in relation to Applicant's Goods, the primary significance of RAO MEKA to the purchasing public is that of a surname.

36. RAO is a commonly recognized surname and is a common last name in the United States.

37. MEKA is also a commonly recognized surname and is a common last name in the United States.

38. When the RAO MEKA Mark is considered a whole, it has the commercial impression of a compound surname.

39. Compound surnames are surnames combined of more than one word.

40. Compound surnames may be used with or without a hyphen.

41. Compound surnames are commonly used in the United States and throughout the world.

42. According to Applicant, RAO MEKA identifies a living individual, namely, Muktheswara Rao Meka.

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43. Upon information and belief, Muktheswara Rao Meka is the owner and founder of Applicant.

44. Upon information and belief, as used in the name of Applicant's owner, Muktheswara Rao Meka, RAO MEKA has the commercial impression of a compound surname.

45. Upon information and belief, relatives and family members of Applicant's owner, Muktheswara Rao Meka, also use RAO MEKA as their surname.

46. Upon information and belief, RAO MEKA is not a rare surname.

47. Upon information and belief, individuals throughout the United States also use RAO MEKA as a surname.

48. Applicant's RAO MEKA Mark has the structure and pronunciation of a compound surname.

49. As used by Applicant, the term RAO MEKA does not have any recognized significance other than as a compound surname.

50. The term RAO MEKA does not have an ordinary language meaning other than as a surname.

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51. When considered as a whole, the primary significance of Applicant's RAO MEKA Mark to the purchasing public is that of a surname.

52. The purchasing public will view Applicant's RAO MEKA Mark as primarily merely a surname when the mark is considered as a whole.

53. Opposer would be damaged if the Opposed Application is allowed to register because Applicant would obtain statutory rights in Applicant's RAO MEKA Mark in violation and derogation of the established prior rights of Opposer in Opposer's RAO'S Marks.

Count III
Lack of Bona Fide Intent

54. Applicant incorporates by reference the foregoing paragraphs as if fully stated herein.

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55. Upon information and belief, at the time Applicant filed the Opposed Application on February 2, 2022, it did not have a bona fide intent to use Applicant's RAO MEKA Mark in the United States in connection with Applicant's Goods.

56. Upon information and belief, Applicant has never used Applicant's RAO MEKA Mark in connection with Applicant's Goods.

57. Upon information and belief, Applicant does not own an active vineyard or winery capable of producing wine.

58. Upon information and belief, Applicant did not own an active vineyard or winery capable of producing wine at the time the Opposed Application was filed on February 2, 2022.

59. Upon information and belief, Applicant does not have a website or web page associated with Applicant's RAO MEKA Mark.

60. Upon information and belief, Applicant does not have social media pages associated with Applicant's RAO MEKA Mark.

61. Upon information and belief, Applicant has no professional experience in the wine industry.

62. Upon information and belief, Applicant is not currently producing wine.

63. Upon information and belief, Applicant was not producing wine at the time the Opposed Application was filed on February 2, 2022.

64. Upon information and belief, Applicant does not have the capacity to produce wine.

65. Upon information and belief, Applicant does not have the capacity to produce wine from grapes grown in a single designated vineyard in the Atlas Peak American Viticultural Area, in accordance with specific standards.

66. Upon information and belief, Applicant did not have the capacity to produce wine at the time the Opposed Application was filed on February 2, 2022.

67. Upon information and belief, Applicant did not have the capacity to produce wine from grapes grown in a single designated vineyard in the Atlas Peak American Viticultural Area, in accordance with specific standards, at the time the Opposed Application was filed on February 2, 2022.

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68. Upon information and belief, Applicant had not entered into any contracts for the production of Applicant's Goods under Applicant's Mark at the time the Opposed Application was filed on February 2, 2022.

69. Upon information and belief, Applicant did not have a bona fide intent to use Applicant's RAO'S Mark in connection with Applicant's Goods at the time the Opposed Application was filed, but instead merely sought to reserve a right in the mark.

~~34.~~70. Opposer would be damaged if the Opposed Application is allowed to register because Applicant would obtain statutory rights in Applicant's RAO'S Mark in violation and derogation of the established prior rights of Opposer in Opposer's RAO'S Marks.

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WHEREFORE, Opposer requests that its Opposition be sustained, that the Opposed Application for registration of Applicant's RAO MEKA Mark be refused, and for such other relief as may be deemed just and proper.

Respectfully submitted,

RAO'S SPECIALTY FOODS, INC.

Date: _____, 2023

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