

ESTTA Tracking number: **ESTTA1150058**

Filing date: **07/29/2021**

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

Proceeding	92077227
Party	Plaintiff Ole Mexican Foods, Inc.
Correspondence Address	PAUL S. OWENS PAUL OWENS & ASSOCIATES P.O. BOX 15310 ATLANTA, GA 30333 UNITED STATES Primary Email: psowens@bellsouth.net 404-370-9800
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Paul S. Owens
Filer's email	psowens@bellsouth.net
Signature	/paul s. owens/
Date	07/29/2021
Attachments	Consent Motion w-App. A (file copy)--First Amended Petition for Cance llation and Exhs. 1-4--No. 92077227.pdf(417355 bytes )

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

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

For the Mark: OLÉ HOT'N FRUITY  
and Design

Registration date: June 25, 2019

OLÉ MEXICAN FOODS, INC.,

Petitioner,

v.

Cancellation No. 92077227

ESPECIES EXOTICAS ESXOT CIA.  
LTDA.,

Registrant.  
-----X

**CONSENT MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION FOR  
CANCELLATION**

Petitioner Olé Mexican Foods, Inc., moves pursuant to Fed.R.Civ.P. 15(a)(2) and 37 C.F.R. 2.115 for leave to file the [Proposed] First Amended Petition for Cancellation, attached hereto as Appendix A. This Consent Motion is made with the consent of the Registrant.

Dated: July 29, 2021

Respectfully submitted,

**/paul s. owens/**  
Paul S. Owens, Esq.  
Attorney for Petitioner--Olé Mexican  
Foods, Inc.  
Paul Owens & Associates  
P.O. Box 15310  
Atlanta, GA 30333-0310

Tel: (404) 370-9800  
E-mail: psowens@bellsouth.net

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of July, 2021, a true and correct copy of the foregoing Consent Motion for Leave to File First Amended Petition for Cancellation was served on counsel for Registrant by emailing a copy to Registrant's attorneys of record at:

Perla M. Kuhn, Esq.  
Fox Rothschild LLP  
Email: pkuhn@foxrothschild.com

Paul W. Kalish, Esq.  
Fox Rothschild LLP  
Email: pkalish@foxrothschild.com

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

# **Appendix A**

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

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

For the Mark: OLÉ HOT'N FRUITY  
and Design

Registration date: June 25, 2019

OLÉ MEXICAN FOODS, INC.,

Petitioner,

v.

Cancellation No. 92077227

ESPECIES EXOTICAS ESXOT CIA.  
LTDA.,

Registrant.

-----X

**FIRST AMENDED PETITION FOR CANCELLATION**

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

1. Petitioner for many years and since long prior to any date of first use upon which Registrant can rely, has adopted and used continuously term OLÉ as a trademark, house mark, and trade name in connection with its food products and food-related services, including but not limited to, chorizo, cheeses/quesos, cheese dips, chicharrones, tortillas, tostadas, tortilla chips, Mexican pastries, Mexican snack foods, hams, crema Mexicana, and salsas.

2. In addition to its common-law rights, Petitioner is the owner of the following registrations that are duly and validly registered on the Principal Register:

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods</u>
OLÉ	2,740,014	Tortillas; tortilla chips.
OLÉ	3,223,608	Mexican style food products, namely, chorizo, queso and cheese dips, and chicharrones in Class 29; Mexican style food products, namely, tortillas, tostadas, tortilla chips, Mexican pastries, Mexican snack foods, namely, corn chips, and salsas in Class 30.



4,899,762 tortillas.



4,292,655 cheese and chorizo.

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

3. Registration Nos. 2,740,014, 3,223,608, 4,899,762, and 4,292,655 identified in paragraph 2 have become incontestable under 15 U.S.C. § 1065. Consequently, each of these registrations identified above in paragraph 2 and the exhibits attached hereto constitute conclusive evidence of the validity of the registered mark, of the registration of the mark, of Petitioner's ownership of the mark, and of Petitioner's exclusive right to use the registered mark in commerce for the goods identified in the registrations.

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

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

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

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

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

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

Dated: July 29, 2021

Respectfully submitted,

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

Attorney for Petitioner--Olé Mexican  
Foods, Inc.

Paul Owens & Associates

P.O. Box 15310

Atlanta, GA 30333-0310

Tel: (404) 370-9800

E-mail: [psowens@bellsouth.net](mailto:psowens@bellsouth.net)



# **Exhibit 1**

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**Mark:** OLÉ

OLÉ

**US Serial Number:** 76438776

**Application Filing Date:** Aug. 06, 2002

**US Registration Number:** 2740014

**Registration Date:** Jul. 22, 2003

**Register:** Principal

**Mark Type:** Trademark

**TM5 Common Status  
Descriptor:**



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

**Status:** The registration has been renewed.

**Status Date:** Aug. 06, 2013

**Publication Date:** Apr. 29, 2003

## Mark Information

**Mark Literal Elements:** OLÉ

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

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Disclaimer:** "DELI"

## Goods and Services

### Note:

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

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

**For:** Tortillas Tortilla chips

**International Class(es):** 030 - Primary Class

**U.S Class(es):** 046

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Feb. 28, 1996

**Use in Commerce:** Feb. 28, 1996

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

## Basis Information (Case Level)

<b>Filed Use:</b> Yes	<b>Currently Use:</b> Yes
<b>Filed ITU:</b> No	<b>Currently ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44E:</b> No
<b>Filed 44E:</b> No	<b>Currently 66A:</b> No
<b>Filed 66A:</b> No	<b>Currently No Basis:</b> No
<b>Filed No Basis:</b> No	

## Current Owner(s) Information

**Owner Name:** Ole Mexican Foods, Inc.

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

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

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** PAUL S OWENS

**Attorney Primary Email Address:** [psowens@bellsouth.net](mailto:psowens@bellsouth.net) **Attorney Email Authorized:** Yes

### Correspondent

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

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

**Correspondent e-mail:** [psowens@bellsouth.net](mailto:psowens@bellsouth.net) **Correspondent e-mail Authorized:** Yes

### Domestic Representative

**Domestic Representative Name:** PAUL S OWENS

## Prosecution History

Date	Description	Proceeding Number
Aug. 06, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Aug. 06, 2013	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	68502
Aug. 06, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	68502
Aug. 06, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	68502
Jul. 22, 2013	TEAS SECTION 8 & 9 RECEIVED	
Jan. 27, 2009	CASE FILE IN TICRS	

Sep. 26, 2008	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	69934
Sep. 18, 2008	TEAS SECTION 8 & 15 RECEIVED	
Sep. 15, 2008	AMENDMENT UNDER SECTION 7 – PROCESSED	
Sep. 03, 2008	ASSIGNED TO PARALEGAL	69934
Aug. 08, 2008	TEAS SECTION 7 REQUEST RECEIVED	
Aug. 30, 2006	REVIEW OF CORRESPONDENCE COMPLETE	59315
Jul. 31, 2003	PAPER RECEIVED	
Jul. 25, 2003	PAPER RECEIVED	
Jul. 22, 2003	REGISTERED-PRINCIPAL REGISTER	
Apr. 29, 2003	PUBLISHED FOR OPPOSITION	
Apr. 09, 2003	NOTICE OF PUBLICATION	
Jan. 03, 2003	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 27, 2002	EXAMINER'S AMENDMENT MAILED	
Dec. 20, 2002	ASSIGNED TO EXAMINER	76729
Nov. 22, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Nov. 22, 2002	PAPER RECEIVED	

## TM Staff and Location Information

### TM Staff Information - None

### File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Aug. 06, 2013

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# **Exhibit 2**

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**Mark:** OLÉ

OLÉ

**US Serial Number:** 76619200

**Application Filing Date:** Nov. 02, 2004

**US Registration Number:** 3223608

**Registration Date:** Apr. 03, 2007

**Register:** Principal

**Mark Type:** Trademark

**TM5 Common Status**

LIVE/REGISTRATION/Issued and Active

**Descriptor:**



The trademark application has been registered with the Office.

**Status:** A Section 15 declaration has been acknowledged.

**Status Date:** May 13, 2017

**Publication Date:** Jul. 12, 2005

## Mark Information

**Mark Literal Elements:** OLÉ

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

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Related Properties Information

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

## Goods and Services

### Note:

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

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

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

**International Class(es):** 029 - Primary Class

**U.S Class(es):** 046

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**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** Jan. 1996**Use in Commerce:** Jan. 1996**For:** Mexican style food products, namely, tortillas, tostadas, [ gorditas, sopes, ] tortilla chips, Mexican pastries, Mexican corn chips, salsas, [ mole, dried corn husks, frijoles, pasta, Mexican candies, tamales, taquitos, and herbal tea**International Class(es):** 030 - Primary Class**U.S Class(es):** 046**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** May 1988**Use in Commerce:** May 1988

## Basis Information (Case Level)

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

## Current Owner(s) Information

**Owner Name:** Olé Mexican Foods, Inc.**Owner Address:** 6585 Crescent Drive  
Norcross, GEORGIA UNITED STATES 30071**Legal Entity Type:** CORPORATION**State or Country Where Organized:** GEORGIA

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Paul S. Owens**Attorney Primary Email Address:** [psowens@bellsouth.net](mailto:psowens@bellsouth.net)**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** Paul S. Owens  
PAUL OWENS & ASSOCIATES  
PO BOX 15310  
ATLANTA, GEORGIA UNITED STATES 30333-0310**Phone:** (404) 370-9800**Fax:** (404) 370-9801**Correspondent e-mail:** [psowens@bellsouth.net](mailto:psowens@bellsouth.net)**Correspondent e-mail Authorized:** Yes**Domestic Representative - Not Found**

## Prosecution History

Date	Description	Proceeding Number
May 14, 2017	SEC. 15 ACKNOWLEDGEMENT - E-MAILED	
May 13, 2017	REGISTERED - SEC. 15 ACKNOWLEDGED	67657
May 13, 2017	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67657
Feb. 06, 2017	TEAS SECTION 15 RECEIVED	
Jan. 03, 2017	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Jan. 03, 2017	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	70131
Jan. 03, 2017	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	70131
Jan. 03, 2017	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	70131
Oct. 21, 2016	TEAS SECTION 8 & 9 RECEIVED	
Oct. 18, 2016	PETITION TO DIRECTOR - DISMISSED	83176
Oct. 17, 2016	ASSIGNED TO PETITION STAFF	83176
Oct. 04, 2016	REINSTATED	67657
Jul. 26, 2016	TEAS PETITION TO DIRECTOR RECEIVED	1111
Apr. 03, 2016	COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED	
Mar. 21, 2016	TTAB RELEASE CASE TO TRADEMARKS	48698
Mar. 21, 2016	CANCELLATION TERMINATED NO. 999999	48698
Feb. 05, 2016	CANCELLED SECTION 18-PARTIAL	48698
Sep. 10, 2015	CANCELLATION GRANTED NO. 999999	48698
Jul. 31, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 - E-MAILED	
Jul. 31, 2012	REGISTERED - SEC. 8 (6-YR) ACCEPTED	74886
Jul. 31, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	74886
Jul. 15, 2012	TEAS SECTION 8 RECEIVED	
Jan. 07, 2008	CANCELLATION INSTITUTED NO. 999999	48698
Aug. 30, 2007	OPPOSITION DISMISSED NO. 999999	166228
Apr. 03, 2007	REGISTERED-PRINCIPAL REGISTER	
Jan. 03, 2006	OPPOSITION DISMISSED NO. 999999	166228
Aug. 15, 2005	OPPOSITION INSTITUTED NO. 999999	166228
Aug. 11, 2005	OPPOSITION PAPERS RECEIVED AT TTAB	
Jul. 12, 2005	PUBLISHED FOR OPPOSITION	
Jun. 22, 2005	NOTICE OF PUBLICATION	
Apr. 08, 2005	LAW OFFICE PUBLICATION REVIEW COMPLETED	76243
Apr. 01, 2005	ASSIGNED TO LIE	76243
Mar. 28, 2005	EXAMINER'S AMENDMENT MAILED	
Mar. 26, 2005	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 26, 2005	EXAMINERS AMENDMENT -WRITTEN	73708
Mar. 26, 2005	ASSIGNED TO EXAMINER	73708
Nov. 17, 2004	NEW APPLICATION ENTERED IN TRAM	



## TM Staff and Location Information

**TM Staff Information - None**

### File Location

**Current Location:** TMEG LAW OFFICE 105

**Date in Location:** May 13, 2017

**Assignment Abstract Of Title Information - None recorded**

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## **Exhibit 3**

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**Mark:** OLÉ MEXICAN FOODS EST. 1988



**US Serial Number:** 77426608

**Application Filing Date:** Mar. 19, 2008

**US Registration Number:** 4899762

**Registration Date:** Feb. 16, 2016

**Register:** Principal

**Mark Type:** Trademark

**TM5 Common Status**

LIVE/REGISTRATION/Issued and Active

**Descriptor:**



The trademark application has been registered with the Office.

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

**Status Date:** Jul. 15, 2021

**Publication Date:** Feb. 10, 2009

## Mark Information

**Mark Literal Elements:** OLÉ MEXICAN FOODS EST. 1988

**Standard Character Claim:** No

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

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

**Color Drawing:** Yes

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

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

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

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## Related Properties Information

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

Registrations:

## Goods and Services

### Note:

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

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

**For:** tortillas

**International Class(es):** 030 - Primary Class

**U.S Class(es):** 046

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jan. 2008

**Use in Commerce:** Jan. 2008

## Basis Information (Case Level)

**Filed Use:** Yes

**Currently Use:** Yes

**Filed ITU:** No

**Currently ITU:** No

**Filed 44D:** No

**Currently 44E:** No

**Filed 44E:** No

**Currently 66A:** No

**Filed 66A:** No

**Currently No Basis:** No

**Filed No Basis:** No

## Current Owner(s) Information

**Owner Name:** Olé Mexican Foods, Inc.

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

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** GEORGIA

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Paul S. Owens

**Attorney Primary Email Address:** [psowens@bellsouth.net](mailto:psowens@bellsouth.net)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** Paul S. Owens

PAUL OWENS & ASSOCIATES  
PO BOX 15310  
ATLANTA, GEORGIA UNITED STATES 30333-0310

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Phone: 404-370-9800

Correspondent e-mail: [psowens@bellsouth.net](mailto:psowens@bellsouth.net)

Correspondent e-mail Yes

Authorized: \_\_\_\_\_

**Domestic Representative - Not Found**

## Prosecution History

Date	Description	Proceeding Number
Jul. 15, 2021	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Jul. 15, 2021	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	76293
Jul. 15, 2021	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76293
Mar. 08, 2021	TEAS SECTION 8 & 15 RECEIVED	
Feb. 16, 2021	COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED	
Feb. 16, 2016	REGISTERED-PRINCIPAL REGISTER	
Jan. 06, 2016	TTAB RELEASE CASE TO TRADEMARKS	189001
Jan. 06, 2016	OPPOSITION TERMINATED NO. 999999	189001
Sep. 10, 2015	OPPOSITION SUSTAINED NO. 999999	189001
Feb. 25, 2009	OPPOSITION INSTITUTED NO. 999999	189001
Feb. 25, 2009	OPPOSITION PAPERS RECEIVED AT TTAB	
Feb. 10, 2009	PUBLISHED FOR OPPOSITION	
Jan. 21, 2009	NOTICE OF PUBLICATION	
Jan. 08, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	74215
Jan. 08, 2009	ASSIGNED TO LIE	74215
Dec. 23, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 23, 2008	EXAMINER'S AMENDMENT ENTERED	88888
Dec. 23, 2008	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Dec. 23, 2008	EXAMINERS AMENDMENT E-MAILED	6328
Dec. 23, 2008	EXAMINERS AMENDMENT -WRITTEN	78478
Jul. 02, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jul. 02, 2008	NON-FINAL ACTION E-MAILED	6325
Jul. 02, 2008	NON-FINAL ACTION WRITTEN	78478
Jun. 24, 2008	ASSIGNED TO EXAMINER	78478
Mar. 26, 2008	NOTICE OF DESIGN SEARCH CODE MAILED	
Mar. 25, 2008	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

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

Current Location: TMO LAW OFFICE 117

Date in Location: Jul. 15, 2021

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## **Exhibit 4**

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**Mark:** OLÉ MEXICAN FOODS EST. 1988



**US Serial Number:** 77924000

**Application Filing Date:** Jan. 29, 2010

**US Registration Number:** 4292655

**Registration Date:** Feb. 19, 2013

**Filed as TEAS Plus:** Yes

**Currently TEAS Plus:** No

**Register:** Principal

**Mark Type:** Trademark

**TM5 Common Status  
Descriptor:**



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

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

**Status Date:** Jun. 07, 2018

**Publication Date:** Mar. 15, 2011

**Notice of Allowance Date:** May 10, 2011

## Mark Information

**Mark Literal Elements:** OLÉ MEXICAN FOODS EST. 1988

**Standard Character Claim:** No

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

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

**Color Drawing:** Yes

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

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

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

**Design Search Code(s):** 03.07.01 - Steers; Oxen, cows, calves, bulls; Cattle  
24.13.25 - Other crosses, including ankh, Maltese; Cross, Maltese; Cross, ankh  
26.11.13 - Two rectangles; Rectangles (exactly two rectangles)

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26.11.16 - Rectangles touching or intersecting  
 26.11.21 - Rectangles that are completely or partially shaded  
 26.17.13 - Underlined words or letters; Overlined words or letters; Letters or words underlined and/or overlined or lines

## Related Properties Information

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

Registrations:

## Goods and Services

### Note:

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

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

**For:** Cheese; Chorizo

**International Class(es):** 029 - Primary Class

**U.S Class(es):** 046

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** May 2011

**Use in Commerce:** May 2011

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** Yes

**Filed ITU:** Yes

**Currently ITU:** No

**Filed 44D:** No

**Currently 44E:** No

**Filed 44E:** No

**Currently 66A:** No

**Filed 66A:** No

**Currently No Basis:** No

**Filed No Basis:** No

## Current Owner(s) Information

**Owner Name:** Olé Mexican Foods, Inc.

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

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** GEORGIA

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Paul S. Owens, Esq.

**Attorney Primary Email Address:** [psowens@bellsouth.net](mailto:psowens@bellsouth.net)

**Attorney Email Authorized:** No

**Correspondent**

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

**Phone:** 404-370-9800

**Correspondent e-mail:** [psowens@bellsouth.net](mailto:psowens@bellsouth.net)

**Correspondent e-mail** Yes  
**Authorized:** \_\_\_\_\_

**Domestic Representative - Not Found****Prosecution History**

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

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

## TM Staff and Location Information

### TM Staff Information - None

### File Location

Current Location: TMEG LAW OFFICE 102

Date in Location: Jun. 07, 2018

## Assignment Abstract Of Title Information - Click to Load

## Proceedings - Click to Load