

ESTTA Tracking number: **ESTTA1173772**

Filing date: **11/19/2021**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

| | | | |
|---------|--|-------------|---------|
| Name | OlÃ© Mexican Foods, Inc. | | |
| Entity | Corporation | Citizenship | Georgia |
| Address | 6585 CRESCENT DRIVE NORCROSS, GA 30071 UNITED STATES | | |

| | | | |
|----------------------|--|--|--|
| Attorney information | PAUL S. OWENS PAUL OWENS & ASSOCIATES P.O. BOX 15310 ATLANTA, GA 30333 UNITED STATES Primary Email: psowens@bellsouth.net 404-370-9800 | | |
| Docket Number | | | |

Registration Subject to Cancellation

| | | | |
|------------------|--|-------------------|------------|
| Registration No. | 5096461 | Registration date | 12/06/2016 |
| Registrant | PRODICEX SOLUTIONS, S.L. EDIFICIO CEEI PARQUE TECNOLOGICO DE ASTURIAS LLANERA, 33428 SPAIN | | |

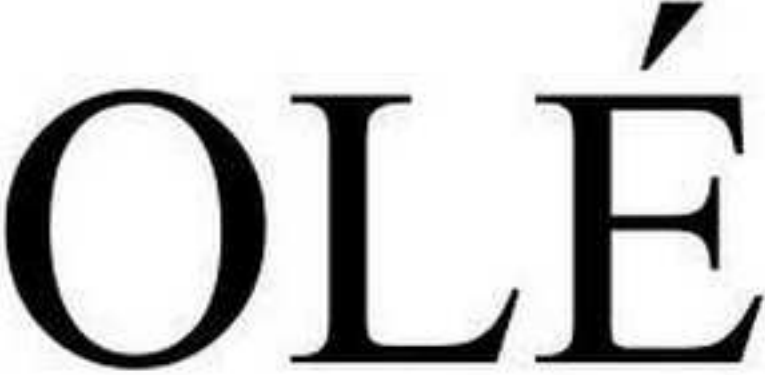
Goods/Services Subject to Cancellation


| |
|---|
| <p>Class 029. First Use: 2014/08/10 First Use In Commerce: 2014/08/14 All goods and services in the class are subject to cancellation, namely: Blended cheese; Canned processed olives; Cheese; Cheese and cracker combinations; Cheese containing herbs; Cheese containing spices; Cheese fondue; Cheese food; Cheese in the form of dips; Cheese making kits; Cottage cheese; Cream cheese; Dipping oil in the nature of flavored olive oil; Farmer's cheese; Feta cheese; Flavored olive oil; Food package combinations consisting primarily of cheese, meat and/or processed fruit; Fresh unripened cheeses; Ham; Head cheese; Mold-ripened cheese; Mould-ripened cheese; Nut cheese, namely, cheese-type product made from nuts; Olive oil; Olive oils; Olive pastes; Panela cheese; Parmesan cheese; Pork; Preserved, dried and cooked olives; Processed cheese; Processed olives; Raw, non-dairy cheese made from fermented cashews; Refrigerated food package combinations consisting primarily of meat, cheese or processed vegetables for purposes of creating a sandwich; Ripened cheese; Ripened cheeses; Romano cheese; Sheep cheese; Soft cheese; Soft white cheese; Soft-ripened cheese; Strained cheese; Strained soft white cheeses; Tinned olives; White cheese</p> |
|---|

Grounds for Cancellation

| | |
|---|---|
| Priority and likelihood of confusion | Trademark Act Sections 14(1) and 2(d) |
| No use of mark in commerce before application, amendment to allege use, or statement of use was filed | Trademark Act Sections 14(1) and 1(a), (c), and (d) |
| Abandonment | Trademark Act Section 14(3) |

Marks Cited by Petitioner as Basis for Cancellation


| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2740014 | Application Date | 08/06/2002 |
| Registration Date | 07/22/2003 | Foreign Priority Date | NONE |
| Word Mark | OLÃ# | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 030. First use: First Use: 1996/02/28 First Use In Commerce: 1996/02/28 Tortillas Tortilla chips | | |

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3223608 | Application Date | 11/02/2004 |
| Registration Date | 04/03/2007 | Foreign Priority Date | NONE |
| Word Mark | OLÃ# | | |
| Design Mark |  | | |
| Description of | NONE | | |

| | |
|----------------|---|
| Mark | |
| Goods/Services | Class 029. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 Mexican style food products, namely, chorizo, queso and cheese dips, [canned peppers, dried peppers,] chicharrones [,and yogurt-based beverages] Class 030. First use: First Use: 1988/05/00 First Use In Commerce: 1988/05/00 Mexican style food products, namely, tortillas, tostadas, [gorditas, sopes,] tortilla chips, Mexican pastries, Mexican snack foods, namely, corn chips, salsas, [mole, dried corn husks, frijoles, pasta, Mexican candies, tamales, taquitos, and herbal teas] |

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4899762 | Application Date | 03/19/2008 |
| Registration Date | 02/16/2016 | Foreign Priority Date | NONE |

| | |
|-----------|------------------------------|
| Word Mark | OLÁ# MEXICAN FOODS EST. 1988 |
|-----------|------------------------------|


| | |
|-------------|---|
| Design Mark |  |
|-------------|---|

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

| | |
|----------------|---|
| Goods/Services | Class 030. First use: First Use: 2008/01/00 First Use In Commerce: 2008/01/00 tortillas |
|----------------|---|

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4292655 | Application Date | 01/29/2010 |
| Registration Date | 02/19/2013 | Foreign Priority Date | NONE |

| | |
|-----------|------------------------------|
| Word Mark | OLÁ# MEXICAN FOODS EST. 1988 |
|-----------|------------------------------|

| | |
|---------------------|--|
| Design Mark |  |
| Description of Mark | <p>The mark consists of a panel shaped design and a cross-shaped background design that includes a bull; the left panel is green, the center panel is white and the right panel is red, with the words "OLE MEXICAN FOODS" superimposed on the panel; the cross-shaped background design is yellow, brown and gold and the bull and wording are black.</p> |
| Goods/Services | <p>Class 029. First use: 2011/05/00 First Use In Commerce: 2011/05/00 Cheese; Chorizo</p> |

| | |
|-------------|--|
| Attachments | <p>76438776#TMSN.png(bytes) 76619200#TMSN.png(bytes) 77426608#TMSN.png(bytes) 77924000#TMSN.png(bytes) Petition for Cancellation w-Exhs 1-4.pdf(447175 bytes)</p> |
|-------------|--|

| | |
|-----------|-----------------|
| Signature | /paul s. owens/ |
| Name | Paul S. Owens |
| Date | 11/19/2021 |

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

-----X
In the Matter of Trademark Registration
No.: 5,096,461

For the Mark: **iOlé**

Registration date: December 6, 2016

OLÉ MEXICAN FOODS, INC.,

Petitioner,

v.

Cancellation No. _____

PRODICEX SOLUTIONS, S.L.
d/b/a iOLÉ

Registrant.
-----X

PETITION FOR CANCELLATION

Petitioner, Olé Mexican Foods, Inc., with its principal place of business at 6585 Crescent Drive, Norcross, Georgia 30071, believes that it will be damaged by registration of the mark shown in Registration No. 5,096,461 in International Class 29 for use with “Blended cheese; Canned processed olives; Cheese; Cheese and cracker combinations; Cheese containing herbs; Cheese containing spices; Cheese fondue; Cheese food; Cheese in the form of dips; Cheese making kits; Cottage cheese; Cream cheese; Dipping oil in the nature of flavored olive oil; Farmer’s cheese; Feta cheese; Flavored olive oil; Food package combinations consisting primarily of cheese, meat and/or processed fruit; Fresh unripened cheeses; Ham; Head cheese; Mold-ripened cheese; Mould-ripened cheese; Nut cheese, namely, cheese-type product made

from nuts; Olive oil; Olive oils; Olive pastes; Panela cheese; Parmesan cheese; Pork; Preserved, dried and cooked olives; Processed cheese; Processed olives; Raw, non-dairy cheese made from fermented cashews; Refrigerated food package combinations consisting primarily of meat, cheese or processed vegetables for purposes of creating a sandwich; Ripened cheese; Ripened cheeses; Romano cheese; Sheep cheese; Soft cheese; Soft white cheese; Soft-ripened cheese; Strained cheese; Strained soft white cheeses; Tinned olives; White cheese” and hereby petitions to cancel the same.

1. Registrant, Prodicex Solutions, S.L. d/b/a iOlé, is a Spanish limited liability company located at Edificio CEEI, Parque Tecnológico de Asturias, Llanera, Spain 33428.

2. 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.

3. 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.

4. Registration Nos. 2,740,014, 3,223,608, 4,899,762, and 4,292,655 identified in paragraph 3 have become incontestable under 15 U.S.C. § 1065. Consequently, each of these registrations identified above in paragraph 3 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.

5. Petitioner's rights in the OLÉ mark were established long prior to the issuance date of the above-captioned registration (i.e., December 6, 2016) or any other date Registrant may rely on for determining priority.

6. 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.

7. 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.

Likelihood of Confusion

8. Petitioner re-asserts and re-alleges the allegations in paragraphs 1-7 herein.

9. The Registrant's above-captioned mark so resembles Petitioner's OLÉ mark, and the goods in connection with which the parties' marks are registered 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).

Abandonment

10. Petitioner re-asserts and re-alleges the allegations in paragraphs 1-9 herein.

11. Upon information and belief, Registrant has discontinued use of the above-captioned mark in commerce with an intent not to resume use.

12. Upon information and belief, Registrant has not used the above-captioned mark in commerce for three consecutive years from the date of this Petition for Cancellation.

Non-Use at the Time of Filing the Statement of Use

13. Petitioner re-asserts and re-alleges the allegations in paragraphs 1-12 herein.

14. Upon information and belief, the Registrant failed to use the above-captioned mark in commerce at the time the Statement of Use was filed on September 15, 2016. In particular, Registrant filed a Statement of Use on September 15, 2016 and submitted a specimen of use purporting to show an alleged claimed first use in commerce of its Class 29 goods on

August 14, 2014, when in fact Registrant knew that it was not using the above-captioned mark in commerce.

15. Since the Registrant was not using the above-captioned mark in commerce at the time filed its Statement of Use on September 15, 2016, the above-captioned registration at issue is void *ab initio* and should be cancelled.

16. For the reasons set out above, Registrant's continued ownership of Registration No. 5,096,461 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. 5,096,461 for the mark iOLÉ (stylized) in International Class 29 be cancelled, and for such other and further relief as to the Board seems just.

Dated: November 18, 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

Exhibit 1

For assistance with TSDR, email teas@uspto.gov and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

Processing Wait Times: Please note that due to an extraordinary surge in applications, processing times are longer than usual. See [current trademark processing wait times](#) for more information.

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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

LIVE/REGISTRATION/Issued and Active

Descriptor:



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)

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First Use: Feb. 28, 1996

Use in Commerce: Feb. 28, 1996

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: 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

Attorney Email Authorized: Yes

CorrespondentCorrespondent 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

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 | |

Privacy - Terms

| | | |
|---------------|--|-------|
| 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 p based beverages]

[Privacy - Terms](#)

International Class(es): 029 - Primary Class**U.S Class(es):** 046**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, Me. 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**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**Correspondent e-mail Authorized:** Yes**Domestic Representative - Not Found**[Privacy - Terms](#)

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

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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
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: 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

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

24.13.02 - Cross, Greek (equal sides); Greek cross (equal sized lines)
 26.03.21 - Ovals that are completely or partially shaded

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

Attorney Email Authorized: Yes

Correspondent

Correspondent Paul S. Owens

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 PO BOX 15310
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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

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Current Location: TMO LAW OFFICE 117

Date in Location: Jul. 15, 2021

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Exhibit 4

For assistance with TSDR, email teas@uspto.gov and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

Processing Wait Times: Please note that due to an extraordinary surge in applications, processing times are longer than usual. See [current trademark processing wait times](#) for more information.

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Generated on: This page was generated by TSDR on 2021-11-19 20:29:44 EST

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

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24.13.25 - Other crosses, including ankh, Maltese; Cross, Maltese; Cross, ankh
 26.11.13 - Two rectangles; Rectangles (exactly two rectangles)
 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: psowens@bellsouth.net

Attorney Email Authorized: No

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Address:**Correspondent**

Correspondent PAUL S. OWENS, ESQ.
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Phone: 404-370-9800

Correspondent e-mail: psowens@bellsouth.net

Correspondent e-mail Yes
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Domestic Representative - Not Found**Prosecution History**

| Date | Description | Proceeding Number |
|---------------|--|-------------------|
| 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

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