

ESTTA Tracking number: **ESTTA1114866**

Filing date: **02/17/2021**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	DEL MONTE FOODS, INC.
Granted to Date of previous extension	02/17/2021
Address	3003 OAK ROAD WALNUT CREEK, CA 94598 UNITED STATES

Correspondence information	HARA K. JACOBS BALLARD SPAHR LLP 1735 MARKET STREET, 51ST FLOOR SUITE 2000 PHILADELPHIA, PA 19103 UNITED STATES Primary Email: dm_tmddocketing@ballardspahr.com Secondary Email(s): jacobsh@ballardspahr.com, auerbachb@ballardspahr.com, deschanej@ballardspahr.com, hargensm@ballardspahr.com 215-864-8209
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Applicant Information

Application No.	88688695	Publication date	10/20/2020
Opposition Filing Date	02/17/2021	Opposition Period Ends	02/17/2021
Applicant	El Coto de Rioja, S.A. CAMINO VIEJO DE LOGROÑO S/N OYÁÑ ARABA, E01320 SPAIN		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Wines
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration	824504	Application Date	03/07/1966
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No.			
Registration Date	02/21/1967	Foreign Priority Date	NONE
Word Mark	DEL MONTE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1964/04/23 First Use In Commerce: 1964/04/24 SOFT DRINKS		

U.S. Registration No.	827921	Application Date	03/03/1966
Registration Date	04/25/1967	Foreign Priority Date	NONE
Word Mark	DEL MONTE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1964/04/23 First Use In Commerce: 1964/04/24 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1964/10/30 First Use In Commerce: 1964/10/30 CANNED VEGETABLES, CANNED FRUITS, CANNED FRUIT AND VEGETABLE JUICES, CANNED FISH, DRIED FRUITS, PICKLES, VEGETABLE RELISHES, HOT PEPPERS, AND CATSUP		

U.S. Registration No.	881339	Application Date	04/23/1969
Registration Date	11/25/1969	Foreign Priority Date	NONE
Word Mark	DEL MONTE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1964/04/23 First Use In Commerce: 1964/04/24 [SOFT DRINKS] Class U046 (International Class 001, 005, 029, 030, 031, 032). First use: First Use: 1891/10/01 First Use In Commerce: 1891/10/01 FRESH AND CANNED VEGETABLES, FRESH AND CANNED FRUITS, CANNED FRUIT AND VEGETABLE JUICES, [CANNED FISH,] DRIED FRUITS,PICKLES, VEGETABLE RELISHES, HOT PEPPERS, AND CATSUP		

U.S. Registration No.	2295935	Application Date	10/15/1998
Registration Date	11/30/1999	Foreign Priority Date	NONE
Word Mark	DEL MONTE QUALITY		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 029. First use: First Use: 1940/01/00 First Use In Commerce: 1940/01/00 processed vegetables, processed fruits,[seafood,] dried fruits and raisins, sauerkraut and canned peppers</p> <p>Class 030. First use: First Use: 1940/01/00 First Use In Commerce: 1940/01/00 vegetable relishes, tomato-based sauces, and catsup</p> <p>Class 032. First use: First Use: 1940/01/00 First Use In Commerce: 1940/01/00 canned fruit and vegetable juices and drinks consisting primarily of fruit juice and water</p>
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U.S. Registration No.	2302024	Application Date	10/16/1998
Registration Date	12/21/1999	Foreign Priority Date	NONE
Word Mark	DEL MONTE QUALITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1940/01/00 First Use In Commerce: 1940/01/00 Processed vegetables, processed fruits,dried fruits, raisins, canned peppers and sauerkraut [, milk-based drinks withfruit juice and water]</p> <p>Class 030. First use: First Use: 1940/01/00 First Use In Commerce: 1940/01/00 vegetable relishes, tomato-based saucesand catsup [, tea-based drinks with fruit juice and water]</p> <p>Class 032. First use: First Use: 1940/01/00 First Use In Commerce: 1940/01/00 Canned fruit and vegetable juices and drinks consisting primarily of fruit juice and water</p>		

Attachments	NOTICE OF OPPOSITION 43677433_1.pdf(470755 bytes)
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Signature	/Hara Jacobs/
Name	HARA K. JACOBS
Date	02/17/2021

1. Del Monte Foods, Inc., a Delaware corporation having a place of business at 3003 Oak Road, Walnut Creek, CA 94598 (the “Opposer”), believes that it will be damaged by the registration of the mark shown in the ‘695 Application and hereby opposes the same. The grounds for opposition are as follows:

2. Since 1891, Opposer and its predecessors have used the DEL MONTE® trademark in connection with the production, marketing, and sale of premium quality food and beverages throughout the United States. Among its many offerings, Opposer sells a broad selection of fruit and vegetable products and beverages, a variety of sauces and condiments, and tomatoes and tomato-based products (the “DEL MONTE® Goods”), all of which are sold nationally under the DEL MONTE® brand. The DEL MONTE® Goods are sold online and in retail grocery stores across the nation as well as to foodservice providers and the U.S. military.

3. Opposer is the owner of more than twenty-five incontestable federal trademark registrations for its renowned and famous marks incorporating its house mark DEL MONTE® (collectively, the “DEL MONTE® Marks”).

4. Opposer is the owner of several incontestable federal trademark registrations for its renowned and famous marks incorporating its house mark DEL MONTE® for fruit juices and other drinks (Reg. Nos. 824,504; 827,921; 881,339; 2,295,935; and 2,302,024). Attached hereto as Exhibit A are printouts from the electronic database of the U.S. Patent and Trademark Office (“USPTO”) showing the current status and title of these registrations.

5. For example, Del Monte is the owner of an incontestable registration (Reg. No. 881,339) for the mark DEL MONTE® for, among other goods, “canned fruit and vegetable juices,” which has been registered with the USPTO for over 50 years and has been in continuous use for 130 years. Del Monte is also the owner of an incontestable registration (Reg. No.

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