

ESTTA Tracking number: **ESTTA638670**

Filing date: **11/13/2014**

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	Wm. Wrigley Jr. Company		
Entity	Corporation	Citizenship	Delaware
Address	1132 West Blackhawk Street Chicago, IL 60622 UNITED STATES		

Attorney information	Douglas N. Masters Loeb & Loeb LLP 321 North Clark Street, Suite 2300 Chicago, IL 60654 UNITED STATES dmasters@loeb.com, chdocket@loeb.com, wrigley@loeb.com Phone:312-464-3100		
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Applicant Information

Application No	86303740	Publication date	10/14/2014
Opposition Filing Date	11/13/2014	Opposition Period Ends	11/13/2014
Applicant	Perfetti Van Melle Benelux BV Zoete inval 20 - 4815 HK Breda, NETHERLANDS		

Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Confectionery, namely, candies and chewing gum

Applicant Information

Application No	86303734	Publication date	10/14/2014
Opposition Filing Date	11/13/2014	Opposition Period Ends	11/13/2014
Applicant	Perfetti Van Melle Benelux BV Zoete inval 20 - 4815 HK Breda, NETHERLANDS		

Goods/Services Affected by Opposition


Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Confectionery, namely, candies and chewing gum

Grounds for Opposition


Deceptiveness	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1518188	Application Date	05/23/1988
Registration Date	12/27/1988	Foreign Priority Date	NONE
Word Mark	WINTERFRESH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1988/05/02 First Use In Commerce: 1988/05/02 CHEWING GUM		

U.S. Registration No.	2047468	Application Date	02/29/1996
Registration Date	03/25/1997	Foreign Priority Date	NONE
Word Mark	WRIGLEY'S WINTERFRESH		
Design Mark			
Description of Mark	The mark consists of the words "WRIGLEY'S" and "WINTERFRESH" and the mountain design.		
Goods/Services	Class 030. First use: First Use: 1994/04/27 First Use In Commerce: 1994/04/27 chewing gum		

U.S. Registration No.	3064491	Application Date	07/06/2004
Registration Date	02/28/2006	Foreign Priority Date	NONE
Word Mark	WINTERFRESH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1994/08/01 First Use In Commerce: 1994/08/01 [Candy, namely,] chewing gum [and mints]

Attachments	75065121#TMSN.png(bytes) 78446072#TMSN.png(bytes) WTF Opposition.pdf(14879 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Douglas N. Masters/
Name	Douglas N. Masters
Date	11/13/2014

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

In the Matter of Application Serial Nos. 86/303,740: WHAT THE FRESH
86/303,734: WTF

WM. WRIGLEY JR. COMPANY,)	
)	
Opposer,)	
)	
v.)	
)	Opposition No.: _____
PERFETTI VAN MELLE BENELUX BV,)	
)	
Applicant.)	
_____)	

CONSOLIDATED NOTICE OF OPPOSITION

Wm. Wrigley Jr. Company (“Opposer”), a Delaware corporation, located and doing business at 1132 West Blackhawk Street, Chicago, IL 60622, believes it will be damaged by registration on the Principal Register of the following trademark applications: “WHAT THE FRESH”, Application Serial No. 86/303,740 for “confectionery, namely, candies and chewing gum” in Class 30 and “WTF”, Application Serial No. 86/303,734 for “confectionery, namely, candies and chewing gum” in Class 30 filed by Perfetti Van Melle Benelux BV (“Perfetti” or “Applicant”), a Dutch corporation located and doing business at Zoete Inval 20 – 4815 HK, Breda, Netherlands, and opposes registration of them.

As grounds for this Opposition, Opposer alleges:

1. Opposer is a leading manufacturer and seller of non-chocolate confectionery products, including candy and gum.
2. Since long prior to Applicant’s June 9, 2014, filing date for the WHAT THE FRESH mark and “WTF”, Opposer has extensively marketed gum in connection with the mark WINTERFRESH.

3. Opposer owns several registrations for Opposer's WINTERFRESH mark with the United States Patent and Trademark Office ("PTO"), including the following registrations:

TRADEMARK	GOODS	REG. NO.
WINTERFRESH	Chewing Gum	1,518,188
WRIGLEY'S WINTERFRESH	Chewing Gum	2,047.468
WINTERFRESH	Chewing Gum	3,064,491

These registrations are valid, subsisting, owned by Opposer and incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

4. Opposer has sold millions of dollars' worth of gum in connection with Opposer's WINTERFRESH mark.

5. Opposer has spent significant sums of money advertising and promoting Opposer's WINTERFRESH mark throughout the United States.

6. By virtue of the popularity of Opposer's WINTERFRESH gum, and the advertising and promotion of Opposer's WINTERFRESH mark, Opposer has built up and now owns extensive common law rights and a valuable goodwill which is symbolized by Opposer's WINTERFRESH mark.

7. Applicant's registration of WHAT THE FRESH for the applied for goods is likely to cause confusion, mistake, or deception in that consumers are likely to believe applicant's goods are Opposer's goods, or the goods of a company that is sponsored, authorized or licensed by, or in some other way legitimately connected with Opposer.

8. On information and belief, Applicant's proposed use and registration of "WTF" is in the form of an acronym, and in connection with its intended use of WHAT THE FRESH.

9. To the extent to which consumers and others understand that "WTF" means or represents WHAT THE FRESH, Applicant's registration of "WTF" for the applied for goods is

likely to cause confusion, mistake, or deception in that consumers are likely to believe applicant's goods are Opposer's goods, or the goods of a company that is sponsored, authorized or licensed by, or in some other way legitimately connected with Opposer.

10. "WTF" also is a common acronym used generally to express indignation, surprise or disbelief.

11. On information and belief, "WTF" does not function as a trademark for "confectionery, namely, candies and chewing gum," but is merely ornamental or informational as applied to Applicant's goods.

12. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant has made use in commerce of the WHAT THE FRESH mark or "WTF".

13. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant has made use in commerce of the WHAT THE FRESH mark or "WTF" prior to June 9, 2014

14. "WTF" has not become distinctive of Applicant's confectionery.

15. "WTF" is so highly descriptive as to not be capable of acquiring distinctiveness for confectionery.

16. If Applicant were granted a registration of "WTF," Applicant would obtain certain statutory rights, including prima facie rights to the exclusive use of "WTF," all to the damage of Opposer.

17. Registration by Applicant of "WTF" would be inconsistent with Opposer's and others' right to use "WTF" descriptively, informationally, or ornamentally.

18. Applicant's use and proposed registration of the WHAT THE FRESH mark and "WTF" are without Opposer's consent or permission.

WHEREFORE, registration by Applicant of WHAT THE FRESH, Application Serial No. 86/303,740, and “WTF,” Application Serial No. 86/303,734 would be damaging to Opposer.

Please debit our Deposit Account No. 502876 for the \$600 filing fee and any additional necessary fees.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb LLP, 321 N. Clark Street, Ste. 2300, Chicago, Illinois 60654.

Dated: November 13, 2014

LOEB & LOEB LLP

By: /Douglas N. Masters/
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Attorneys for Opposer
WM. WRIGLEY JR. COMPANY

CERTIFICATE OF SERVICE

I, Noreen Gosselin, hereby certify that a copy of this **NOTICE OF OPPOSITION** has been served upon:

George W. Lewis, Esq.
Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Ave. NW, Ste. 700
Washington, D.C. 20036-2657

via first class mail, postage prepaid on this 13th day of November, 2014.

/Noreen Gosselin/