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

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In re Trademark Application of :  
S.C. JOHNSON & SON, INC. :  
Serial No. 76/227,460 :  
Filed: March 20, 2001 :  
Mark: QUICK 'N FRESH :  
Published in the Official Gazette :  
on September 4, 2001 Page TM 259 :  
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01-21-2003  
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #3:

**NOTICE OF OPPOSITION**

TO: Assistant Commissioner of Patents and Trademarks  
Box TTAB  
FEE  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Aldi Inc., an Illinois Corporation located and doing business at 1200 N. Kirk Road, Batavia, Illinois 60510-1479, believes that it will be damaged by the registration of the mark shown above as Serial No. 76/227,460 and hereby opposes the same.

As grounds of the opposition, it is alleged that:

1. Aldi Inc. (hereinafter referred to as "Opposer") has been engaged in the business of marketing plastic food wrap in interstate commerce bearing the trademark KWIK N FRESH, since on or before August 24, 1977. Opposer is the owner of a Certificate of Registration No. 1,126,287 for the trademark KWIK N FRESH for plastic food wrap granted by the United States Patent and Trademark Office on October 23, 1979, on the Principal Register. A copy of the Certificate of Registration is attached hereto and made a part hereof Exhibit "A".

2. Opposer has been engaged in the business of marketing aluminum foil in interstate commerce bearing the trademark KWIK N FRESH, since on or before February 18, 1979. Opposer is the owner of a Certificate of Registration No. 1,316,561 for the trademark KWIK N FRESH for aluminum foil granted by the United States Patent and Trademark Office on January 29, 1985, on the Principal Register. A copy of the Certificate of Registration is attached hereto and made a part hereof Exhibit "B".

3. Opposer has been engaged in the business of marketing storage containers namely disposable and reusable plastic containers for storing household and kitchen goods in interstate commerce bearing the trademark KWIK N FRESH since on or before November 18, 2000, which bears Serial No. 76/339,294.

4. Opposer has been engaged in the business of marketing plastic and paper food storage bags, plastic and paper reclosable storage bags, plastic and paper bags for household use, and plastic and paper sandwich bags in interstate commerce bearing the trademark KWIK N FRESH since prior to March 20, 2001, the filing date of the above-referenced application by S.C. Johnson & Son, Inc. (hereinafter referred to as "Applicant").

5. On information and belief, Applicant has not used the mark, QUICK 'N FRESH, in interstate commerce.

6. The trademark KWIK N FRESH was adopted by the Opposer for plastic food wrap on or before August 24, 1977 and has been continually used since that date in interstate commerce by applying it to containers for the goods and in other ways customary to the trade.

7. The trademark KWIK N FRESH was adopted by the Opposer for aluminum foil on or before February 18, 1979 and has been continually used since that date in interstate commerce by applying it to the containers for the goods and in other ways customary to the trade.

8. The trademark KWIK N FRESH was adopted by the Opposer for storage containers namely disposable and reusable plastic containers for storing household and kitchen goods on or before November 18, 2000 and has been continually used since that date in interstate commerce by applying it to labels affixed to the containers for the goods and in other ways customary to the trade. This trademark is set forth in a pending application with the Trademark Office and has been assigned Serial No. 76/339,294.

9. The trademark KWIK N FRESH was adopted by the Opposer for plastic and paper food storage bags, plastic and paper reclosable storage bags, plastic and paper bags for household use, and plastic and paper sandwich bags prior to March 20, 2001. This application is pending with the Trademark Office and has been assigned Serial No. 76/193,008.

10. Opposer has sold, advertised and promoted the aforescribed goods bearing the trademark KWIK N FRESH and by reason of such efforts and the high quality of Opposer's products, said trademark has become known to the purchasing public and is a valuable asset of the Opposer.

11. The Applicant's mark, QUICK 'N FRESH, is similar in sound, appearance, connotation and commercial impression to Opposer's mark, KWIK N FRESH.

12. The Applicant seeks registration of QUICK 'N FRESH for carpet and fabric deodorizer, which are household goods, and Opposer uses its mark KWIK N FRESH on household goods.

13. On information and belief, Applicant's and Opposer's goods will be sold in the same channels of trade and to the same potential consumers.

14. In view of the above allegations, the purchasing public is likely to be confused, mistaken, or deceived into thinking that Applicant's product emanates from or is sponsored by

Opposer, or is related or connected in some way with Opposer's established KWIK N FRESH products, all to the damage of the Opposer.

15. This notice is filed in duplicate and the fee of THREE HUNDRED DOLLARS (\$300.00) is paid herewith.

16. Opposer's attorneys have an Office Account No. 500963. In the event there is a deficiency in the appropriate fee, please charge that account for the deficiency. Opposer's counsel would appreciate a telephone call for prior authorization of such charge with contact to be made to the undersigned, Allen L. Landmeier or Vincent Elders.

WHEREFORE, Opposer respectfully prays that this Opposition be sustained and that registration of Applicant's mark be denied.

ALDI INC.

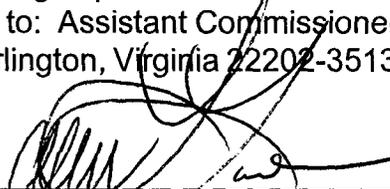
By: 

Allen L. Landmeier  
Attorney for Aldi Inc.  
P.O. Box 127  
15 North Second Street  
Geneva, Illinois 60134  
Telephone: (630) 232-2880  
Registration No. 26,476

Dated: January 16, 2003.

### **CERTIFICATE OF MAILING**

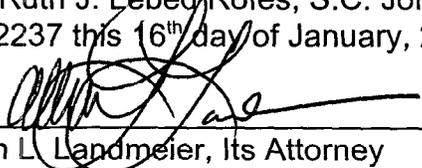
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents and Trademarks, Box TTAB, FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on January 16, 2003.

  
Allen L. Landmeier, Its Attorney

January 16, 2003  
Date of Signature

**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing Notice of Opposition was served by first class mail, postage prepaid, addressed to Attorney Ruth J. Lebed Rofes, S.C. Johnson & Son, Inc., 1525 Howe Street, Racine, Wisconsin 53403-2237 this 16<sup>th</sup> day of January, 2003.

  
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Allen L. Landmeier, Its Attorney

January 16, 2003

Date of Signature

Int. Cl.: 16

U.S. Cl.: 37



Reg. No. 1,126,287

Reg. Oct. 23, 1979

**U.S. Patent and Trademark Office**

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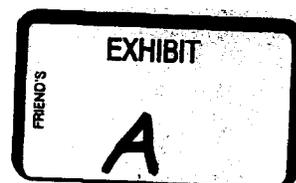
**TRADEMARK**  
Supplemental Register

**KWIK N FRESH**

Aldi, Inc. (Illinois corporation)  
3400 Mt. Pleasant St.  
Burlington, Iowa 52601

For: Plastic Food Wrap—in Class 16. (U.S. Cl. 37).  
First use Aug. 24, 1977; in commerce Aug. 24, 1977.

Ser. No. 186,780, filed P.R. Sep. 25, 1978; Am. S.R. Apr.  
23, 1979.



Int. Cl.: 6



Prior U.S. Cl.: 14

**United States Patent and Trademark Office**

**Reg. No. 1,316,561**

Registered Jan. 29, 1985

**TRADEMARK**  
Principal Register

**KWIK N FRESH**

Aldi Inc. (Illinois corporation)  
1200 N. Kirk Rd.  
Batavia, Ill. 60510

For: ALUMINUM FOIL, in CLASS 6 (U.S. Cl.  
14).

First use Feb. 18, 1979; in commerce Feb. 18,  
1979.

Owner of U.S. Reg. Nos. 1,126,287 and 1,268,352.

Ser. No. 472,312, filed Mar. 26, 1984.

ERNEST H. LAND, Examining Attorney

