

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

In the matter of trademark application Serial No. 78/235,881  
 Filed April 9, 2003  
 For the mark SURE-FLAP  
 Class: 16  
 Published in the Official Gazette at TM 215 on December 16, 2003

SHURFINE FOODS, INC.,	)
	)
Opposer,	)
	)
v.	)
	)
LRC PRODUCTS LIMITED,	)
	)
Applicant.	)

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO:

COMMISSIONER OF PATENTS AND TRADEMARKS WASHINGTON D.C. 20231

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*[Handwritten signature]*

**NOTICE OF OPPOSITION**

1. SHURFINE FOODS, INC., an Illinois corporation having its principal place of business at 6700 S.W. Sandburg Street, Tigard, Oregon 97223 (hereinafter "Opposer"), believes that it is damaged by registration of the mark SURE-FLAP that is the subject of U.S. Trademark Application Serial No. 78/235,881 (hereinafter "'881 application") for packaging, namely, paper bags and envelopes for packaging, plastic bags and envelopes for packaging, paper for wrapping and packaging, paper pouches for packaging, plastic pouches for packaging and plastic bubble wrap for wrapping and packaging by LRC Products Limited, a United Kingdom corporation having an address at 35 New Bridge Street, London, United Kingdom, (hereinafter "Applicant"). The '881 application was filed April 9, 2003 and published in the Official Gazette at TM 215 on December 16, 2003. Opposer opposes registration of the '881 application.

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As first grounds for opposition, Opposer alleges as follows:

2. Opposer owns numerous registrations for SHUR- prefix marks, e.g., U.S. Registration Nos. 2,710,943; 2,506,497; 2,425,809; 2,341,464; 2,285,574; 1,965,622; 1,928,809; 1,916,702; 1,847,799; 1,702,791; 1,691,599; 1,683,923; 807,575; and 558,657 for the mark SHURFINE as a service mark, collective mark, and trademark for a variety of grocery and

household products including toothbrushes; U.S. Registration Nos. 2,276,332; 1,286,296; 1,152,556; 945,843; 786,505; 686,418; and 663,880 for the mark SHURFRESH for a variety of grocery products; U.S. Reg. Nos. 2,153,416; 2,112,899; 1,546,999; and 770,099 for the mark SHUR VALU for grocery and household products; U.S. Reg. No. 2,314,177 for the mark SHURSAVE for retail grocery services; U.S. Registration Nos. 1,722,210; 1,711,996; 1,703,595; 1,445,491; 1,435,870; 1,435,869; 1,435,858; 1,435,514; 1,430,811; and 1,237,527 for the mark SHUR SAVING for grocery and household products; U.S. Reg. No. 2,222,998 for the mark SHUR TECH for various automotive maintenance products; U.S. Reg. No. 2,506,498 for SHUR FINE CAFÉ for restaurant food services, namely home meal replacement services consisting of the preparation and service of carryout, home-style, meals; U.S. Reg. No. 2,116,787 for the mark SHURFINE PAID CALL for prepaid long-distance telephone services; U.S. Registration No. 2,775,641 for the mark SURECOMFORT for adult incontinence products, namely, diapers and incontinence garments; U.S. Reg. No. 1,134,376 for the mark SHURFINE (stylized) for plastic wrap, paper napkins and paper towels, plastic storage bags, and plastic sandwich bags; U.S. Reg. No. 1,820,916 for the mark SHUR FINE for paper bags; U.S. Reg. No. 2,170,823 for the mark SHURFINE (stylized) for plastic food storage bags for household use; U.S. Reg. No. 1,431,181 for the mark SHUR SAVING for plastic food storage bags; and U.S. Reg. No. 1,737,906 for the mark SHUR SAVING for plastic wrap and polyethylene wrapping film.

3. Applicant's mark SURE-FLAP so resembles Opposer's registered SHURFINE, SHURFRESH, SHUR VALU, SHURSAVE, SHUR SAVING, SHUR TECH, SHUR FINE CAFÉ, SHURFINE PAID CALL and SURECOMFORT marks as to be likely, when used on or in connection with the goods or services of the Applicant, to cause confusion, mistake or deception.

As second, alternative, grounds for opposition, Opposer alleges as follows:

4. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SHURFINE as a service mark, collective mark, and trademark for a variety of grocery and household products including plastic wrap, paper napkins, paper towels, plastic storage bags, plastic sandwich bags, plastic food storage bags for household use, and paper bags.

5. Opposer, since prior to Applicant's filing date or any date of first use upon which Registrant can rely, has used and not abandoned the mark SHURFRESH for grocery products sold in grocery, convenience, and drug stores.

6. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SHUR VALU for grocery and household products sold in grocery, convenience, and drug stores.

7. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SHURSAVE for retail grocery store services.

8. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SHUR SAVING for grocery and household products sold in grocery, convenience, and drug stores including plastic food storage bags, plastic wrap, and polyethylene wrapping film.

9. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SHUR TECH for automotive products sold in grocery, convenience, and drug stores.

10. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SHUR FINE CAFÉ for restaurants, food services, namely home meal replacement services consisting of the preparation and service of carryout, home-style meals sold in grocery, convenience, and drug stores.

11. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SHURFINE PAID CALL for prepaid long-distance telephone services sold in grocery, convenience, and drug stores.

12. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and not abandoned the mark SURECOMFORT for adult incontinence products, namely, diapers and incontinence garments.

12. Applicant's mark SURE-FLAP so resembles Opposer's previously used marks SHURFINE, SHURFRESH, SHUR VALU, SHURSAVE, SHUR SAVING, SHURTECH, SHUR FINE CAFÉ, SHURFINE PAID CALL and SURECOMFORT as to be likely, when used on or in connection with the goods or services of the Applicant, to cause confusion, mistake or deception.

As third, alternative, grounds for opposition, Opposer alleges as follows:

13. Opposer is the owner of a family of SHUR- prefixes marks including SHURFINE, SHURFRESH, SHUR VALU, SHURSAVE, SHUR SAVING, SHURTECH, SHUR FINE CAFÉ, SHURFINE PAID CALL and SURECOMFORT.

14. Opposer, since prior to Applicant's filing date or any date of first use upon which Applicant can rely, has used and promoted its marks SHURFINE, SHURFRESH, SHUR VALU, SHUR SAVING, SHURSAVE, SHUR TECH, SHUR FINE CAFÉ, SHURFINE PAID CALL and SURECOMFORT as a family of marks.

15. Applicant's mark SURE-FLAP is so similar to Opposer's family of marks that, when used on or in connection with the goods or services of the Applicant, is likely to be perceived as another member of Opposer's family of marks, and is likely to cause confusion, mistake or deception.

As fourth, alternative, grounds for opposition, Opposer alleges as follows:

16. Opposer's marks SHURFINE, SHURFRESH, SHUR VALU, SHURSAVE, SHUR SAVING, SHUR TECH, SHUR FINE CAFÉ, SHURFINE PAID CALL and SURECOMFORT have become distinctive and famous within the meaning of Section 43(c) of the Lanham Act [15 U.S.C. Section 1125(c)].

17. Applicant's use and registration of the mark SURE-FLAP will cause dilution of the distinctive quality of Opposer's marks.

As fifth, alternative, grounds for opposition, Opposer alleges as follows:

18. Applicant's mark SURE-FLAP when used on or in connection with the goods of the Applicant is merely descriptive.

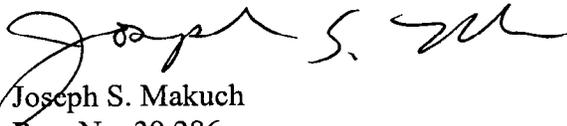
As a sixth, alternative, grounds for opposition, Opposer alleges as follows:

19. Applicant's mark SURE-FLAP when used on or in connection with the goods of the Applicant suggests a false connection with Opposer within the meaning of Section 2(a) of the Trademark Act [15 U.S.C. Section 1052(a)].

Opposer asks the Board to sustain this opposition and refuse registration to the Applicant.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

  
Joseph S. Makuch  
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Attorneys for Opposer

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# TTAB

Trademark Application  
Docket No. 8381-538

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re trademark application of: LRC Products Limited

Serial No. 78/235,881

Filed: April 9, 2003

Class: 16

Mark: SURE-FLAP

Box TTAB  
FEE

Commissioner for Patents  
2900 Crystal Drive  
Arlington, VA 22202-3513



06-17-2004

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On 6-17-04

### TRANSMITTAL LETTER

Enclosed are the following items concerning the above-referenced application:

- Notice of Opposition (in duplicate)
- PTO Form 2038 authorizing credit card payment in the amount of \$300.00 is enclosed
- Return Postcard
- Any deficiency or overpayment should be charged or credited to Deposit Account Number 13-1703.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

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