

ESTTA Tracking number: **ESTTA156769**

Filing date: **08/14/2007**

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	National Pork Board
Granted to Date of previous extension	08/15/2007
Address	P.O. Box 9114 Des Moines, IA 50306 UNITED STATES

Attorney information	Jennifer Daniel Collins FAEGRE & BENSON LLP 1700 LINCOLN STREET 3200 Wells Fargo Center Denver, CO 80203-4532 UNITED STATES trademarkdnvr@faegre.com, jcollins@faegre.com, jbeard@faegre.com, jsmith@faegre.com, jfrench@faegre.com Phone:(303) 607-3500
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**Applicant Information**

Application No	78840216	Publication date	04/17/2007
Opposition Filing Date	08/14/2007	Opposition Period Ends	08/15/2007
Applicant	Patragnoni, David 31 Hampshire Way Medford, NJ 08055 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 030. All goods and services in the class are opposed, namely: Sandwiches
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	1486548	Application Date	08/24/1987
Registration Date	04/26/1988	Foreign Priority Date	NONE
Word Mark	THE OTHER WHITE MEAT		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 042. First use: First Use: 1986/11/04 First Use In Commerce: 1986/11/10 ASSOCIATION SERVICES NAMELY, PROMOTING THE INTERESTS OF MEMBERS OF THE PORK INDUSTRY

U.S. Registration No.	3129186	Application Date	06/10/2005
Registration Date	08/15/2006	Foreign Priority Date	NONE
Word Mark	THE OTHER WHITE MEAT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1997/00/00 First Use In Commerce: 1997/00/00 COOKBOOKS, BROCHURES ABOUT PORK, PENS, PENCILS, CRAYONS, BUMPERSTICKERS, AND STICKERS Class 025. First use: First Use: 1997/00/00 First Use In Commerce: 1997/00/00 SHIRTS, T-SHIRTS, SWEATSHIRTS, APRONS, JACKETS, AND HATS Class 043. First use: First Use: 2000/06/00 First Use In Commerce: 2000/06/00 PROVIDING AN INTERNET WEB SITE FEATURING FOOD PREPARATION/ COOKING INFORMATION REGARDING PORK AND ACCOMPANYING RECIPES		

U.S. Registration No.	3126072	Application Date	03/28/2005
Registration Date	08/08/2006	Foreign Priority Date	NONE
Word Mark	THE OTHER WHITE MEAT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2005/02/00 First Use In Commerce: 2005/02/00 PROMOTING THE INTERESTS OF THE MEMBERS OF THE PORK INDUSTRY Class 043. First use: First Use: 2005/02/00 First Use In Commerce: 2005/02/00 PROVIDING AN INTERNET WEB SITE FEATURING INFORMATION ABOUT COOKING AND ACCOMPANYING RECIPES		

U.S. Registration No.	2009023	Application Date	10/06/1994
Registration Date	10/15/1996	Foreign Priority Date	NONE
Word Mark	THE OTHER BURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1995/01/00 First Use In Commerce: 1995/01/00 association services, namely promoting the interests of members of the pork industry		

U.S. Registration No.	2840618	Application Date	08/08/2000
Registration Date	05/11/2004	Foreign Priority Date	NONE
Word Mark	THE OTHER TAILGATE PARTY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1999/12/00 First Use In Commerce: 1999/12/00 Association services, namely, promoting the interests of members of the pork industry		

Attachments	78648718#TMSN.jpeg ( 1 page )( bytes ) 78596650#TMSN.jpeg ( 1 page )( bytes ) 76105989#TMSN.gif ( 1 page )( bytes ) THE OTHER CHEESESTEAK Notice of Opposition.pdf ( 5 pages )(141273 bytes )
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Signature	/Jennifer Daniel Collins/
Name	Jennifer Daniel Collins
Date	08/14/2007

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

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NATIONAL PORK BOARD, a board  
created by a federal statute,

Opposer,

v.

DAVID PATRAGNONI,

Applicant.

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Opposition No. \_\_\_\_\_

Mark: **THE OTHER CHEESESTEAK**

Serial No.: 78/840,216

Filing Date: March 17, 2006

Publication Date: April 17, 2007

**NOTICE OF OPPOSITION**

National Pork Board, a board created by federal statute having its business address at P.O. Box 9114, Des Moines, Iowa 50306, believes that it will be damaged by the registration of the mark **THE OTHER CHEESESTEAK**, as depicted in Application Serial No. 78/840,216 (“Applicant’s Mark”), and hereby oppose the registration of said application under the provisions of 15 U.S.C. § 1063.

As grounds for its opposition to the registration of Applicant’s Mark, Opposer alleges:

1. Applicant David Patragnoni (“Applicant”) applied for Applicant’s Mark on March 17, 2006, and said application was assigned serial number 78/840,216.
2. Application serial number 78/840,216 seeks the registration of Applicant’s Mark, depicted as follows:

**THE OTHER CHEESESTEAK**

3. Application serial number 78/840,216 seeks the registration of Applicant's Mark in connection with the following goods:

"sandwiches," in International Class 30.

4. Applicant's Mark was published for Opposition in the *Official Gazette* on April 17, 2007.

5. On May 16, 2007, Opposer requested, and was granted, an extension of time in which to oppose Applicant's Mark, to August 15, 2007. Accordingly, this Notice of Opposition is timely filed.

6. Opposer is the owner of the following United States Trademark Registrations:

<b>Mark</b>	<b>Reg. No.</b>	<b>Goods</b>	<b>Reg. Date</b>
<b>THE OTHER WHITE MEAT</b>	1,486,548	association services namely, promoting the interests of members of the pork industry	April 26, 1988
<b>THE OTHER WHITE MEAT</b>	3,129,186	cookbooks, brochures about pork, pens, pencils, crayons, bumperstickers, and stickers; shirts, t-shirts, sweatshirts, aprons, jackets, and hats; providing an internet web site featuring food preparation/cooking information regarding pork and accompanying recipes	August 15, 2006

	3,126,072	promoting the interests of the members of the pork industry; providing an internet web site featuring information about cooking and accompanying recipes	August 8, 2006
<b>THE OTHER BURGER</b>	2,009,023	association services, namely promoting the interests of members of the pork industry	October 15, 1996
<b>THE OTHER TAILGATE PARTY</b>	2,840,618	association services, namely, promoting the interests of members of the pork industry	May 11, 2004

7. In addition to these registered marks, Opposer is also the owner of valid and enforceable common law rights in the following trademarks: **THE OTHER WHITE PROTEIN, THE OTHER STEAK DINNER, THE OTHER PRIME RIB, THE OTHER STIR-FRY, THE OTHER BACKYARD BARBECUE, THE OTHER ROMANTIC DINNER, THE OTHER SUNDAY BRUNCH,** and **THE OTHER TV DINNER.**

8. This family of marks built around the mark THE OTHER WHITE MEAT has been promoted extensively for many years, with National Pork Board having invested millions of dollars in advertising since 1986 in the promotion of the mark THE OTHER WHITE MEAT.

9. Opposer's mark THE OTHER WHITE MEAT is famous throughout the United States.

10. Opposer has been using the mark THE OTHER WHITE MEAT since at least 1986. The proposed mark THE OTHER CHEESESTEAK was filed March 17, 2006 on an intent-to-use basis and therefore claims no date of first use. Opposer's mark THE OTHER

WHITE MEAT became famous prior to the filing of the opposed application and prior to any alleged use of THE OTHER CHEESESTEAK as a mark. Registration and use of the proposed mark THE OTHER CHEESESTEAK for use in connection with sandwiches would dilute the distinctiveness of the mark THE OTHER WHITE MEAT, and would be damaging to Opposer.

11. Opposer is not connected in any way with Applicant's use of Applicant's Mark.

12. Applicant's use of or intended use of Applicant's Mark is without Opposer's consent or permission.

13. Applicant's Mark is confusingly similar to THE OTHER WHITE MEAT.

14. Applicant's use or intended use of Applicant's Mark in connection with Applicant's goods is likely to cause confusion, mistake, or deception as to the source, origin, or sponsorship or approval of Applicant's goods, in that consumers are likely to believe that Applicant's goods are Opposer's goods, or are in some way legitimately connected with, licensed, or approved by Opposer. The two marks are similar in sound, meaning, connotation, and commercial impression.

15. Opposer believes that the registration of Applicant's Mark on the Principal Register in connection with the opposed services would be inconsistent with Opposer's rights under the common law and the Trademark Act, and Opposer believes that such registration would be damaging to Opposer.

WHEREFORE, Opposer believes that it would be damaged by registration of Applicant's Mark in connection with the opposed services and respectfully prays that Application serial number 78/840,216 be rejected, that no registration be issued thereon, and that this opposition be sustained in favor of Opposer.

The required opposition fee of \$300.00 accompanies this Notice. If the filing fee is deficient or excessive in any way, the Commissioner is granted authority to credit or debit Deposit Account Number 06-0029.

Dated: August 14, 2007

Respectfully submitted,

By: 

John L. Beard  
Jennifer Daniel Collins  
Faegre & Benson LLP  
3200 Wells Fargo Center  
1700 Lincoln Street  
Denver, Colorado 80203-4532

Attorneys for Opposer  
National Pork Board

Filed Electronically via ESSTA.