

ESTTA Tracking number: **ESTTA269119**

Filing date: **02/27/2009**

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	AB Holdings, LLC
Granted to Date of previous extension	02/28/2009
Address	1555 Shoreline Drive, 3rd Floor Boise, ID 83702 UNITED STATES

Attorney information	David A. Roodman and Lindsay E. Cohen Bryan Cave LLP One Metropolitan Square, Ste 3600 St. Louis, MO 63102 UNITED STATES lindsay.cohen@bryancave.com, daroodman@bryancave.com, ncollora@bryancave.com Phone:314 259 2000
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Applicant Information

Application No	77387934	Publication date	12/30/2008
Opposition Filing Date	02/27/2009	Opposition Period Ends	02/28/2009
Applicant	Agricultural Systems International, Inc. 77 Cooper Avenue Landisville, PA 17538 UNITED STATES		

Goods/Services Affected by Opposition

Class 040. All goods and services in the class are opposed, namely: water treatment services using electromagnetic frequency modulation methodology to produce water that is designed to improve the course and duration of production metrics including feed conversion, mortality, disease and food quality

Applicant Information

Application No	77387931	Publication date	12/30/2008
Opposition Filing Date	02/27/2009	Opposition Period Ends	
Applicant	Agricultural Systems International, Inc. 77 Cooper Avenue Landisville, PA 17538 UNITED STATES		

Goods/Services Affected by Opposition

Class 040.

All goods and services in the class are opposed, namely: water treatment services using electromagnetic frequency modulation methodology to produce water that is designed to improve the course and duration of production metrics including feed conversion, mortality, disease and food quality

Applicant Information

Application No	77387923	Publication date	12/30/2008
Opposition Filing Date	02/27/2009	Opposition Period Ends	
Applicant	Agricultural Systems International, Inc. 77 Cooper Avenue Landisville, PA 17538 UNITED STATES		

Goods/Services Affected by Opposition

Class 040.

All goods and services in the class are opposed, namely: water treatment services using electromagnetic frequency modulation methodology to produce water that is designed to improve the course and duration of production metrics including feed conversion, mortality, disease and food quality

Applicant Information

Application No	77387937	Publication date	12/30/2008
Opposition Filing Date	02/27/2009	Opposition Period Ends	
Applicant	Agricultural Systems International, Inc. 77 Cooper Avenue Landisville, PA 17538 UNITED STATES		

Goods/Services Affected by Opposition

Class 040.

All goods and services in the class are opposed, namely: water treatment services using electromagnetic frequency modulation methodology to produce water that is designed to improve the course and duration of production metrics including feed conversion, mortality, disease and food quality

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	All grounds set forth in the attached Notice of Opposition

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3508056	Application Date	02/22/2008
Registration Date	09/30/2008	Foreign Priority	NONE

		Date	
Word Mark	AGRI BEEF CO.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1978/12/04 First Use In Commerce: 1978/12/04 Beef; namely, beef carcasses, cut portions of beef both packaged and non-packaged, and ground beef Class 044. First use: First Use: 1978/12/04 First Use In Commerce: 1978/12/04 Ranching and feeding of cattle		

U.S. Registration No.	3352145	Application Date	03/07/2006
Registration Date	12/11/2007	Foreign Priority Date	NONE
Word Mark	AB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2005/11/30 First Use In Commerce: 2005/11/30 On-line ordering services featuring high quality beef and beef related products, namely beef carcasses, cut portions of beef both packaged and non-packaged and ground beef Class 044. First use: First Use: 1978/12/04 First Use In Commerce: 1978/12/04 Ranching and feeding of cattle		

U.S. Registration No.	2532838	Application Date	01/05/2000
Registration Date	01/22/2002	Foreign Priority Date	NONE
Word Mark	BAR AB		

Design Mark	BAR AB
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2000/01/00 First Use In Commerce: 2000/01/00 Certified organic meats

U.S. Application No.	77673160	Application Date	02/18/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AB		
Design Mark	AB		
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1978/12/04 First Use In Commerce: 2000/02/00 meat; frozen meat; prepared meat; preserved meat; processed meat; beef; pork; hamburger; ham; cut meats; deli meats; frankfurters; sausages</p> <p>Class 031. First use: First Use: 1978/12/04 First Use In Commerce: 1978/12/04 live animals, namely, cattle and pigs</p> <p>Class 035. First use: First Use: 1978/12/04 First Use In Commerce: 1998/10/00 On-line, catalog, mail, and direct ordering services featuring high quality beef, beef offal, beef carcasses, packaged beef and non-packaged beef, pork, hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; retail and wholesale sales services featuring meat, beef, pork hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; butcher shop; wholesale food distributorship services; contract trucks that carry beef; logistic services; meat distribution</p> <p>Class 044. First use: First Use: 1978/12/04 First Use In Commerce: 1978/12/04 Ranching and feeding of cattle and pigs</p>		

U.S. Application No.	77673125	Application Date	02/18/2009
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AB		
Design Mark			
Description of Mark	The mark consists of the letters "AB" in stylized text.		
Goods/Services	<p>Class 029. First use: First Use: 1978/12/04 First Use In Commerce: 2000/02/00 meat; frozen meat; prepared meat; preserved meat; processed meat; beef; pork; hamburger; ham; cut meats; deli meats; frankfurters; sausages</p> <p>Class 031. First use: First Use: 1978/12/04 First Use In Commerce: 1978/12/04 live animals, namely, cattle and pigs</p> <p>Class 035. First use: First Use: 1978/12/04 First Use In Commerce: 1998/10/00 promotional materials from Applicant's website showing the AB mark used on or in connection with Applicant's sales of meat products and food distribution services, an invoice showing the AB mark used on or in connection with Applicant's sales of meat products, and the cover page from a brochure advertising Applicant's services offered in connection with the AB mark</p> <p>Class 044. First use: First Use: 1978/12/04 First Use In Commerce: 1978/12/04 photographs of signage from Applicant's feedlots showing the AB mark used on or in connection with Applicant's ranching services</p>		

U.S. Application No.	77673092	Application Date	02/18/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AB		
Design Mark			
Description of Mark	The mark consists of a horizontal rectangular shaped bar centered above the letters "AB" in stylized text.		
Goods/Services	<p>Class 029. First use: meat; frozen meat; prepared meat; preserved meat; processed meat; beef; pork; hamburger; ham; cut meats; deli meats; frankfurters; sausages</p>		

	<p>Class 031. First use: live animals, namely, cattle and pigs</p> <p>Class 035. First use: On-line, catalog, mail, and direct ordering services featuring high quality beef, beef offal, beef carcasses, packaged beef and non-packaged beef, pork, hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; retail and wholesale sales services featuring meat, beef, pork hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; butcher shop; wholesale food distributorship services; contract trucks that carry beef; logistic services; meat distribution</p> <p>Class 044. First use: Ranching and feeding of cattle and pigs</p>
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U.S. Application No.	77673054	Application Date	02/18/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	STAR AB SUSTAINABILITY TOTAL QUALITY ANIMAL WELL-BEING RESPONSIBILITY		
Design Mark			
Description of Mark	The mark consists of the letters "AB" in large stylized text encircled within a four-pointed star. The letters "S" "T" "A" "R" appear on the tips of the four-pointed star and are connected by the words SUSTAINABILITY, TOTAL QUALITY, ANIMAL WELL-BEING, and RESPONSIBILITY circling the star.		
Goods/Services	<p>Class 029. First use: meat; frozen meat; prepared meat; preserved meat; processed meat; beef; pork; hamburger; ham; cut meats; deli meats; frankfurters; sausages</p> <p>Class 031. First use: live animals, namely, cattle and pigs</p> <p>Class 035. First use: On-line, catalog, mail, and direct ordering services featuring high quality beef, beef offal, beef carcasses, packaged beef and non-packaged beef, pork, hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; retail and wholesale sales services featuring meat, beef, pork hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; butcher shop; wholesale food distributorship services; contract trucks that carry beef; logistic services; meat distribution</p> <p>Class 044. First use: Ranching and feeding of cattle and pigs</p>		

Attachments	77404222#TMSN.jpeg (1 page)(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	/lec/
Name	David A. Roodman and Lindsay E. Cohen
Date	02/27/2009

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

In the Matter of U.S. Application Serial Nos. 77387934; 77387931; 77387923; and 77387937

Proposed Marks: AGRI-BEEF; AGRI-VEAL; AGRI-PORK; and AGRI-DAIRY

Application Filing Date: February 4, 2008

Date of Publication: December 30, 2008

AB Holdings, LLC,)				
)				
v.)	Opposer,			
)		Opposition Nos. _____		
Agricultural Systems International, Inc.,)				
Applicant.)				
)				
)				

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

AB Holdings, LLC (“Opposer” and/or “AB”), an Idaho Limited Liability Company, having a principal place of business at 1555 Shoreline Drive, 3rd Floor, Boise, Idaho 83702, hereby states that it in good faith believes that it will be damaged by the registration of: (1) AGRI-BEEF; (2) AGRI-VEAL; (3) AGRI-PORK; and (4) AGRI-DAIRY; by Applicant Agricultural Systems International, Inc. (“Applicant”), as shown, respectively, in U.S. Application Serial Nos. 77/387,934; 77/387,931; 77/387,923; and 77/387,937, all filed on February 4, 2008. Accordingly, AB Holdings hereby respectfully opposes the registration of all four referenced applications. In support of this Notice of Opposition, Opposer AB states as

follows:

1. On information and belief, Applicant Agricultural Systems International, Inc. (“ASI”), is a Pennsylvania corporation having a principal place of business at 77 Cooper Avenue, Landisville, Pennsylvania 17538.
2. Opposer AB, and its licensed and related companies, comprise the most respected companies and brands in the meat industry whose businesses provide, among other things, feed conversion, animal ranching, organic waste solutions for environmental sustainability, animal nutrition, animal feed, feed supplements, commodity management, feed and nutrient storage and dispensing equipment, beef and pork supply management, animal breeding, beef and pork processing, beef and pork product marketing, and wholesale and retail beef and pork marketing and sales.
3. Opposer AB is the exclusive owner of all rights, title, and interest in, to, and under the AGRI BEEF CO.®, AB®, BAR AB®, AB Logos, AGRI BEEF™, and any variations thereof, brands (the “AGRI BEEF CO.® Family of Marks.”).
4. Opposer AB’s AGRI BEEF CO. brand is extremely well-known and famous for a variety of goods and services including, for example, managing feed yards, improving feedlot efficiency through the use of high-tech products and systems, feed conversion, animal ranching, organic waste solutions for environmental sustainability, animal nutrition, animal feed, feed supplements, commodity management, feed and nutrient storage and dispensing equipment, beef and pork supply management, animal breeding, beef and pork processing, beef and pork product marketing, and wholesale and retail livestock, beef and pork marketing and sales.

5. Opposer AB's and/or its related or licensed companies comprise the only U.S. entity that has withstood the rigorous scrutiny of both ISO (International Standards Organization) and HACCP (Food Safety) qualification in every aspect of its supply chain from start to finish.

6. Since at least as early as December 4, 1978, Opposer AB, its related companies, licensees, and/or predecessors-in-interest ("AB Holdings"), have continuously used the extremely well-known and valuable AGRI BEEF CO.® mark, and variations thereof, in connection with, among other goods and services, feed conversion, ranching and cattle feeding operations, packaged and non-packaged beef and pork products, managing feed yards, improving feedlot efficiency through the use of high-tech products and systems, organic waste solutions for environmental sustainability, animal nutrition, animal feed, feed supplements, commodity management, feed and nutrient storage and dispensing equipment, beef and pork supply management, animal breeding, beef and pork processing, beef and pork product marketing, and wholesale and retail livestock, beef and pork marketing and sales.

7. The AGRI BEEF CO.® Family of Marks has long been and continues to be used by AB Holdings and is extremely well-known in and to the relevant trade and public as identifying AB Holdings as the source of origin of goods and services provided by AB Holdings, and, further, to distinguish goods and services provided by AB Holdings from those goods and services offered and/or associated with others.

8. By virtue of AB Holdings' substantially exclusive and continuous use of its AGRI BEEF CO.® Family of Marks for more than thirty years, AB Holdings' AGRI BEEF CO.® Family of Marks has become identified with high quality, dependable, and innovative goods and

services that originate from AB Holdings for, *inter alia*, feed conversion, ranching and cattle feeding operations, packaged and non-packaged beef and pork products, managing feed yards, improving feedlot efficiency through the use of high-tech products and systems, organic waste solutions for environmental sustainability, animal nutrition, animal feed, feed supplements, commodity management, feed and nutrient storage and dispensing equipment, beef and pork supply management, animal breeding, beef and pork processing, beef and pork product marketing, and wholesale and retail livestock, beef and pork marketing and sales.

9. Since at least as early as December 4, 1978, AB Holdings has expended a substantial amount of time, money, and effort promoting, marketing, and advertising its goods and services under and in connection with its valuable and well-known AGRI BEEF CO.® Family of Marks.

10. AB Holdings' AGRI BEEF CO.® Family of Marks is extremely valuable and has developed a significant amount of goodwill.

11. The AGRI BEEF CO.® Family of Marks is well-known, famous, and has acquired substantial secondary meaning, notoriety, and goodwill among the relevant public.

12. The AGRI BEEF CO.® Family of Marks includes, among others, the following US Trademark Registrations and pending applications for registration:

<u>MARK</u>	<u>REG/SER. NO.</u>	<u>GOODS/SERVICES</u>
AGRI BEEF CO.®	3,508,056	Ranching and feeding of cattle, in Int'l Class 44; Beef; namely, beef carcasses, cut portions of beef both packaged and non-packaged, and ground beef, in Int'l Class 29
AB®	3,352,145	Ranching ad feeding of cattle, in Int'l Class 44; On-line ordering services featuring high quality

<u>MARK</u>	<u>REG/SER NO.</u>	<u>GOODS/SERVICES</u>
		beef and beef related products, namely beef carcasses, cut portions of beef both packaged and non-packaged and ground beef, in Int'l Class 35
BAR AB®	2,532,838	Certified organic meats, in Int'l Class 29
AB	77/673,160	Meat; frozen meat; prepared meat; preserved meat; processed meat; beef; pork; hamburger; ham; cut meats; deli meats; frankfurters; sausages, in Int'l Class 29; Live animals, namely, cattle and pigs, in Int'l Class 31; On-line, catalog, mail, and direct ordering services featuring high quality beef, beef offal, beef carcasses, packaged beef and non-packaged beef, pork, hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; retail and wholesale sales services featuring meat, beef, pork hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; butcher shop; wholesale food distributorship services; contract trucks that carry beef; logistic services; meat distribution, in Int'l Class 35; Ranching and feeding of cattle and pigs, in Int'l Class 44
	77/673,125	Meat; frozen meat; prepared meat; preserved meat; processed meat; beef; pork; hamburger; ham; cut meats; deli meats; frankfurters; sausages, in Int'l Class 29; Live animals, namely, cattle and pigs, in Int'l Class 31; On-line, catalog, mail, and direct ordering services featuring high quality beef, beef offal, beef carcasses, packaged beef and non-packaged beef, pork, hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; retail and wholesale sales services featuring meat, beef, pork hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; butcher shop; wholesale food distributorship services; contract trucks that carry beef; logistic services; meat distribution, in Int'l Class 35; Ranching and feeding of cattle and pigs, in Int'l

<u>MARK</u>	<u>REG/SER NO.</u>	<u>GOODS/SERVICES</u>
	77/673,092	<p>Class 44</p> <p>Meat; frozen meat; prepared meat; preserved meat; processed meat; beef; pork; hamburger; ham; cut meats; deli meats; frankfurters; sausages, in Int'l Class 29;</p> <p>Live animals, namely, cattle and pigs, in Int'l Class 31;</p> <p>On-line, catalog, mail, and direct ordering services featuring high quality beef, beef offal, beef carcasses, packaged beef and non-packaged beef, pork, hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; retail and wholesale sales services featuring meat, beef, pork hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; butcher shop; wholesale food distributorship services; contract trucks that carry beef; logistic services; meat distribution, in Int'l Class 35;</p> <p>Ranching and feeding of cattle and pigs, in Int'l Class 44</p>
	77/673,054	<p>Meat; frozen meat; prepared meat; preserved meat; processed meat; beef; pork; hamburger; ham; cut meats; deli meats; frankfurters; sausages, in Int'l Class 29;</p> <p>Live animals, namely, cattle and pigs, in Int'l Class 31;</p> <p>On-line, catalog, mail, and direct ordering services featuring high quality beef, beef offal, beef carcasses, packaged beef and non-packaged beef, pork, hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; retail and wholesale sales services featuring meat, beef, pork hamburger, ham, cut meats, deli meats, frankfurters, sausages, gift baskets; butcher shop; wholesale food distributorship services; contract trucks that carry beef; logistic services; meat distribution, in Int'l Class 35;</p> <p>Ranching and feeding of cattle and pigs, in Int'l Class 44</p>

13. The above-referenced registrations and applications are valid, subsisting, and in

full force and effect. Additionally, AB Holdings' federal registration for the mark BAR AB® is incontestable.

14. Notwithstanding the foregoing, on February 4, 2008, Applicant ASI filed with the U.S. Patent and Trademark Office (collectively, the "ASI AGRI Applications"):

(a) Application Serial No. 77/387,934 (the "934 Application") in an attempt to register AB's mark AGRI-BEEF on the Principal Register for the following services: "water treatment services using electromagnetic frequency modulation methodology to produce water that is designed to improve the course and duration of production metrics including feed conversion, mortality, disease and food quality" in International Class No. 40;

(b) Application Serial No. 77/387,931 (the "931 Application") in an attempt to register AGRI-VEAL on the Principal Register for the following services: "water treatment services using electromagnetic frequency modulation methodology to produce water that is designed to improve the course and duration of production metrics including feed conversion, mortality, disease and food quality" in International Class No. 40;

(c) Application Serial No. 77/387,923 (the "923 Application") in an attempt to register AGRI-PORK on the Principal Register for the following services: "water treatment services using electromagnetic frequency modulation methodology to produce water that is designed to improve the course and duration of production metrics including feed conversion, mortality, disease and food quality" in International Class No. 40; and

(d) Application Serial No. 77/387,937 (the "937 Application") in an attempt to register AGRI-DAIRY on the Principal Register for the following services: "water treatment

services using electromagnetic frequency modulation methodology to produce water that is designed to improve the course and duration of production metrics including feed conversion, mortality, disease and food quality” in International Class No. 40.

15. AB Holdings’ first used its AGRI BEEF CO.® mark over thirty years ago, at least as early as December 4, 1978, which long and substantially predates ASI’s February 4, 2008 filing date for the four above-referenced ASI AGRI Applications for registration.

16. AB Holdings began offering its goods and services in, *inter alia*, the livestock and beef industries under its AGRI BEEF CO.® Family of Marks over thirty years prior to the application filing dates for the four ASI AGRI Applications. Accordingly, there can be no dispute that AB Holdings has priority in, to, and under its AGRI BEEF CO.® Family of Marks and is the Senior User in this Opposition Proceeding.

17. Prior to filing the ASI AGRI Applications, ASI should have been fully aware of AB Holdings’ extensive use and prior registrations of its AGRI BEEF CO.® Family of Marks.

18. The services recited in the ASI AGRI Applications are highly and directly related to AB Holdings’ products and services provided under its AGRI BEEF CO.® Family of Marks.

19. The services recited in the ASI AGRI Applications are of the type that would be provided in the same and/or analogous channels of trade as AB Holdings’ products and services provided under its AGRI BEEF CO.® Family of Marks.

20. It is no coincidence that ASI attempted to register AGRI-BEEF; AGRI-VEAL; AGRI-PORK; and AGRI-DAIRY. Considering AB Holding’s prior registrations and notoriety in the subject industries, ASI either was or should have been familiar with AB Holdings’

products and services offered under and in connection with its AGRI BEEF CO.® Family of Marks.

21. Upon information and belief, AB Holdings will be damaged by ASI's proposed use and registration of AGRI-BEEF on or in connection with the services recited in the '934 Application, because, *inter alia*, there is a likelihood of confusion between AGRI-BEEF and AB Holdings' AGRI BEEF CO.® Family of Marks.

22. The alleged mark AGRI-BEEF is identical to AB Holdings' prior registration for AGRI BEEF CO.®, and the alleged mark AGRI-BEEF is confusingly similar in appearance, sound, pronunciation, meaning, and commercial impression to AB Holdings' AGRI BEEF CO.® Family of Marks.

23. The services recited in the '934 Application for AGRI-BEEF are directly and highly related to the goods and services AB Holdings has provided for more than thirty years under its AGRI BEEF CO.® Family of Marks.

24. Accordingly, if used on or in connection with the services set forth in the '934 Application, AGRI-BEEF so resembles AB Holdings' AGRI BEEF CO.® Family of Marks as to cause confusion, to cause mistake, and to deceive as to the source of origin or sponsorship of ASI's proposed services.

25. AGRI-BEEF, as applied for in the '934 Application is not registrable under Section 2(d) of the Lanham Act in view of AB Holdings' prior, continuous, and ongoing use of its AGRI BEEF CO.® Family of Marks in U.S. commerce.

26. Additionally, the '934 Application is not registrable under Section 43(c) of the

Lanham Act in view of the famous nature of AB Holdings' AGRI BEEF CO.® Family of Marks, the fact that such fame was associated with AB Holdings' AGRI BEEF CO.® Family of Marks well in advance of the filing date of the '934 Application, and ASI's proposed use of AGRI-BEEF as an alleged mark is likely to cause, and will cause, the dilution of AB Holdings' AGRI BEEF CO.® Family of Marks.

27. Upon information and belief, AB Holdings will be damaged by ASI's use and registration of AGRI-VEAL on or in connection with the services recited in the '931 Application, because, *inter alia*, there is a likelihood of confusion between AGRI-VEAL and AB Holdings' AGRI BEEF CO.® Family of Marks.

28. The alleged mark AGRI-VEAL is confusingly similar in, at least, appearance, sound, pronunciation, meaning, and commercial impression to AB Holdings' AGRI BEEF CO.® Family of Marks.

29. The services recited in the '931 Application for AGRI-VEAL are directly and highly related to the goods and services AB Holdings has provided for more than thirty years under its AGRI BEEF CO.® Family of Marks.

30. Accordingly, when used on or in connection with the services set forth in the '931 Application, AGRI-VEAL so resembles AB Holdings' AGRI BEEF CO.® Family of Marks as to cause confusion, to cause mistake, and to deceive as to the source of origin or sponsorship of ASI's services.

31. AGRI-VEAL, as applied for in the '931 Application is not registrable under Section 2(d) of the Lanham Act in view of AB Holdings' prior, continuous, and ongoing use of

its AGRI BEEF CO.® Family of Marks in U.S. commerce.

32. Additionally, the '931 Application is not registrable under Section 43(c) of the Lanham Act in view of the famous nature of AB Holdings' AGRI BEEF CO.® Family of Marks, the fact that such fame was associated with AB Holdings' AGRI BEEF CO.® Family of Marks well in advance of the filing date of the '931 Application, and the proposed use by ASI of AGRI-VEAL as an alleged mark is likely to cause, and will cause, dilution of AB Holdings' AGRI BEEF CO.® Family of Marks.

33. Upon information and belief, AB Holdings will be damaged by ASI's use and registration of AGRI-PORK on or in connection with the services recited in the '923 Application, because, *inter alia*, there is a likelihood of confusion between AGRI-PORK and AB Holdings' AGRI BEEF CO.® Family of Marks.

34. The alleged mark AGRI-PORK is confusingly similar in appearance, sound, pronunciation, meaning, and commercial impression to AB Holdings's AGRI BEEF CO.® Family of Marks.

35. The services recited in the '923 Application for AGRI-PORK are directly and highly related to the goods and services AB Holdings has provided for more than thirty years under its AGRI BEEF CO.® Family of Marks.

36. Accordingly, when used on or in connection with the services set forth in the '923 Application, AGRI-PORK so resembles AB Holdings' AGRI BEEF CO.® Family of Marks as to cause confusion, to cause mistake, and to deceive as to the source of origin or sponsorship of ASI's services.

37. AGRI-PORK, as applied for in the '923 Application is not registrable under Section 2(d) of the Lanham Act in view of AB Holdings' prior, continuous, and ongoing use of its AGRI BEEF CO.® Family of Marks in U.S. commerce.

38. In addition, the '923 Application is not registrable under Section 43(c) of the Lanham Act in view of the famous nature of AB Holdings' AGRI BEEF CO.® Family of Marks, the fact that such fame was associated with AB Holdings' AGRI BEEF CO.® Family of Marks well in advance of the filing date of the '923 Application, and use by ASI of AGRI-PORK as an alleged mark is likely to cause, and will cause, the dilution of AB Holdings' AGRI BEEF CO.® Family of Marks.

39. Upon information and belief, AB Holdings will be damaged by ASI's use and registration of AGRI-DAIRY on or in connection with the services recited in the '937 Application, because, *inter alia*, there is a likelihood of confusion between AGRI-DAIRY and AB Holdings' AGRI BEEF CO.® Family of Marks.

40. The alleged mark AGRI-DAIRY is confusingly similar in appearance, sound, pronunciation, meaning, and commercial impression to AB Holdings's AGRI BEEF CO.® Family of Marks.

41. The services recited in the '937 Application for AGRI-DAIRY are highly related to the goods and services AB Holdings has provided for more than thirty years under its AGRI BEEF CO.® Family of Marks.

42. Accordingly, when used on or in connection with the services set forth in the '937 Application, AGRI-DAIRY so resembles AB Holdings' AGRI BEEF CO.® Family of Marks as

to cause confusion, to cause mistake, and to deceive as to the source of origin or sponsorship of ASI's services.

43. AGRI-DAIRY, as applied for in the '937 Application is not registrable under Section 2(d) of the Lanham Act in view of AB Holdings' prior, continuous, and ongoing use of its AGRI BEEF CO.® Family of Marks in U.S. commerce.

44. In addition, the '937 Application is not registrable under Section 43(c) of the Lanham Act in view of the famous nature of AB Holdings' AGRI BEEF CO.® Family of Marks, the fact that such fame was associated with AB Holdings' AGRI BEEF CO.® Family of Marks well in advance of the filing date of the '937 Application, and use by ASI of AGRI-DAIRY as an alleged mark is likely to cause, and will cause, the dilution of AB Holdings' AGRI BEEF CO.® Family of Marks.

WHEREFORE, AB Holdings respectfully requests that the Trademark Trial and Appeal Board refuse to register U. S. Trademark Application Serial Nos. 77/387,934; 77/387,931; 77/387,923; and 77/387,937.

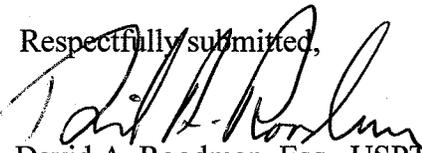
AB Holdings hereby appoints the following individuals as its attorneys with full power of substitution, association, and revocation in the above-entitled opposition to prosecute same and to transact all business in the United States Patent and Trademark Office in connection with said opposition: David A. Roodman, Lindsay E. Cohen, Robert G. Lancaster, Edward J. Hejlek, J. Bennett Clark, Stephen P. Gilbert, Erik Wolff Kahn, Lawrence G. Kurland, Daniel A. Crowe, Todd J. Braverman, James B. Surber, Lucinda A. Althausser, Mark A. Paskar, Michael A. Kahn, George C. Chen, Allan W. Watts, K. Lee Marshall, Andrew Klungness, Walter P. Opaska, Emma Harty, Nick E. Williamson, Patricia L. Werner, Jessica E. S. Glunt, and other intellectual

property attorneys from the law firm of Bryan Cave LLP, One Metropolitan Square, 211 North Broadway, Suite 3600, St. Louis, Missouri 63102.

The Commissioner is authorized to charge the opposition fee in the amount of \$1,200 (for one International Class in each of the four pending applications), to USPTO Deposit Account No. 02-4467, as well as any additional fees that may be incurred or required in connection with the filing of this Opposition Proceeding.

Date: February 27, 2009

Respectfully submitted,



David A. Roodman, Esq., USPTO No. 35,663
DA_Roodman@BryanCave.com

Lindsay E. Cohen, Esq.

Lindsay.Cohen@BryanCave.com

BRYAN CAVE LLP

211 North Broadway, Suite 3600

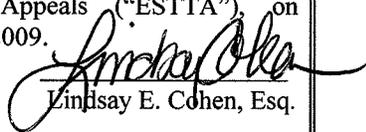
St. Louis, Missouri 63102

Phone: (314) 259-2000

Fax: (314) 259-2020

CERTIFICATE OF TRANSMISSION

I hereby certify that this Notice of Opposition was electronically transmitted to the Trademark Trial and Appeal Board via the Electronic System for Trademark Trials and Appeals ("ESTTA") on February 27, 2009.



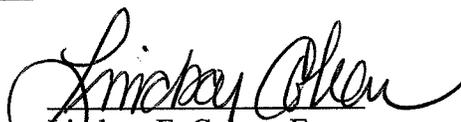
Lindsay E. Cohen, Esq.

**ATTORNEYS FOR OPPOSER
AB HOLDINGS, LLC**

CERTIFICATE OF SERVICE

I hereby certify that, on the 27th day of February, 2009, a true and correct copy of the foregoing Notice Of Opposition was served via first class mail and e-mail, to Applicant's counsel as follows:

Mr. Jordan A. LaVine
Flaster Greenberg, P.C.
1628 John F. Kennedy Blvd, Floor 15
Philadelphia, PA 19103-2130
Phone: (215) 279-9389
Fax: (215) 279-9394
jordan.lavine@flastergreenberg.com
www.flastergreenberg.com


Lindsay E. Cohen, Esq.