

ESTTA Tracking number: **ESTTA317698**

Filing date: **11/19/2009**

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	Edward L Rice		
Entity	Individual	Citizenship	UNITED STATES
Address	127 Elm Street, Suite 201 Washington, MO 63090 UNITED STATES		

Correspondence information	Edward L Rice 127 Elm Street, Suite 201 Washington, MO 63090 UNITED STATES Larry@Interfood.us, Larry@DFIngredients.com Phone:636-231-3006		
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**Applicant Information**

Application No	77747639	Publication date	10/27/2009
Opposition Filing Date	11/19/2009	Opposition Period Ends	11/26/2009
Applicant	Interfood Holding B.V. Lange Trekken 42 NI-5531 Pz Bladel, NETHERLANDS		

**Goods/Services Affected by Opposition**

Class 035. First Use: 1998/00/00 First Use In Commerce: 1998/00/00 All goods and services in the class are opposed, namely: distributorship services in the field of dairy goods
Class 036. First Use: 1998/00/00 First Use In Commerce: 1998/00/00 All goods and services in the class are opposed, namely: Brokerage services in the field of dairy goods; consulting services regarding brokerage of dairy goods

**Grounds for Opposition**

False suggestion of a connection	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)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Genericness	Trademark Act section 23
Other	No bona fide use of mark in commerce in the US by applicant prior to the filing under Trademark Act section 1(a); Applicant is not the owner of the mark; and applicant is not entitled to use the

	mark in commerce in the US
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### Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	INTERFOOD		
Goods/Services	Distributorship and Brokerage services in the field of dairy goods including but not limited to cheese, non-fat dry-milk, whey-powders with various protein concentrations, lactose, butter, milk-protein concentrates, buttermilk, yogurt-powders, casein and caseinates, custom blends, etc.		

Related Proceedings	US District Court, Eastern District of Missouri, Eastern Division, Cause No. 4:08CV85-DJS (Federal Judge Donald J. Stohr, Saint Louis, MO)Interfood Holding, B.V., vs. Larry Rice et al
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Attachments	09-11-19 Rice Opposition of Interfood Mark.pdf ( 1 page )(6687 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	/larry rice/
Name	Edward L Rice
Date	11/19/2009

November 19, 2009

Notice of Opposition to Serial # 77747639, mark "INTERFOOD"

Applicant: Interfood Holding B.V.

Opposer: Edward (Larry) Rice

The un-stylized word "interfood" has been found to be generic by Federal Judge Donald J. Stohr in a related case No. 4:08CV85-DJS in US District Court in Saint Louis MO, based in part on the fact that a Yahoo search on the word "interfood" returned 321,000 results from companies in all aspects of the international food industry including buyers/sellers of dairy goods, trade shows, equipment manufacturers and others that understand "interfood" to be shorthand for the "international food" industry.

Opposer owns up to 50% interest in three companies whose purposes include distributorship and brokerage services in the field of dairy goods: DF Ingredients, Inc., and Interfood Ingredients, USA, Inc, both Missouri corporations; and Waltepeco Holding Company, which owns 100% of Interfood, Inc., incorporated in Indiana in 1994.

Applicant is a Dutch Holding Company that is not directly involved in commerce in the US. Applicant, as a shareholder in another Dutch Holding Company that is opposer's partner in yet another Holding Company in the US, has signed an agreement restricting applicant from commercial activities in the US so applicant is not entitled to use the mark in commerce in the US. Interfood, Inc., not the applicant, is involved in distributorship and brokerage of dairy goods in the US but applicant does not control the nature or quality of the goods sold or services rendered under the mark, so applicant is not the owner of the mark under 15 U.S.C. §1051

Opposer on the other hand has used the mark extensively for dairy goods on his interfood.us domain and plans to use it in the future in connection with his company Interfood Ingredients USA, Inc.

Applicant has recently incorporated a new company in Delaware with the same exact name as the Interfood, Inc. Indiana company that has been operating in the US with dairy goods since 1994. If successful in this registration applicant would use it to dilute opposer's use and to cause confusion in the market as to the source of the products offered.

In short, opposer has a direct and personal stake in the outcome of this registration and believes he will be damaged if the registration is approved, as said registration is not only likely to cause confusion in the market, but it will allow applicant to stop opposer from continuing to use the term descriptively in business for the same or similar goods and services, and would prevent opposer from his bona fide intent to use the term with his companies such as Interfood Ingredients USA, Inc.