

ESTTA Tracking number: **ESTTA335541**

Filing date: **03/04/2010**

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	Golding Farms Foods, Inc.
Granted to Date of previous extension	03/06/2010
Address	6061 Gun Club Road Winston-Salem, NC 27103 UNITED STATES

Attorney information	Peter J. Juran Blanco Tackabery & Matamoros, P.A. PO Drawer 25008 Winston-Salem, NC 27114 UNITED STATES pjj@blancolaw.com, mmo@blancolaw.com Phone:336-293-9000
----------------------	--

Applicant Information

Application No	77731547	Publication date	01/05/2010
Opposition Filing Date	03/04/2010	Opposition Period Ends	03/06/2010
Applicant	Jaquez, Raymond 1550 5th Avenue Bay Shore, NY 11706 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2009/05/07 First Use In Commerce: 2009/05/07 All goods and services in the class are opposed, namely: Bottled drinking water, namely, spring water

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2073197	Application Date	10/12/1995
Registration Date	06/24/1997	Foreign Priority Date	NONE
Word Mark	NATURALLY HEALTHY		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 029. First use: First Use: 1995/08/04 First Use In Commerce: 1995/08/04 jams and jellies</p> <p>Class 030. First use: First Use: 1995/08/04 First Use In Commerce: 1995/08/04 honey, salad dressing, molasses, maple syrup, steak sauce, salsa, hot sauce, relish, mustard, barbecue sauce, cocktail sauce, tartar sauce</p> <p>Class 032. First use: First Use: 1995/08/04 First Use In Commerce: 1995/08/04 fruit juices, bottled liquid bloody mary mix, syrups for making fruit drinks</p>
----------------	---

Attachments	naturalhealthyopposition.pdf.PDF (4 pages)(142210 bytes)
-------------	---

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	/Peter J. Juran/
Name	Peter J. Juran
Date	03/04/2010

in International Class 032, as evidenced by the publication of such mark in the Official Gazette on January 5, 2010.

2. Since at least as early as August 4, 1995, and long prior to May 7, 2009, the effective filing date of the subject application, Opposer adopted and has been using the mark NATURALLY HEALTHY (“Opposer’s Mark”) in connection with jams and jellies in International Class 029; honey, salad dressing, molasses, maple syrup, steak sauce, salsa, hot sauce, relish, mustard, barbecue sauce, cocktail sauce, tarter sauce in International Class 030; and fruit juices, bottled liquid bloody mary mix, syrups for making fruit drinks in International Class 032.

3. Since at least as early as 1995 and long prior to the effective filing date of the subject application, and prior to any use upon which Applicant can rely, Opposer has adopted and has been using Opposer’s Mark in connection with fruit juices, bottled liquid bloody mary mix, syrups for making fruit drinks and bottled water.

4. Opposer has marketed and sold its goods under Opposer’s Mark throughout the entire United States, including at national trade shows and through national retailers. By virtue of the longstanding use of Opposer’s Mark, the expenditure of considerable sums for advertising and other promotional activities, and the excellence of the products sold under Opposer’s Mark, Opposer has developed an exceedingly valuable reputation and tremendous goodwill in and to Opposer’s Mark.

5. Opposer is the owner of Registration No. 2,073,197 for Opposer’s Mark for jams and jellies in International Class 029; honey, salad dressing, molasses, maple syrup, steak sauce, salsa, hot sauce, relish, mustard, barbecue sauce, cocktail sauce, tarter sauce in International Class 030; and fruit juices, bottled liquid bloody mary mix, syrups for making fruit drinks in International Class 032. The registration is valid, and

subsisting, unrevoked, uncanceled and has become incontestable pursuant to 15 U.S.C. §1065.

6. Opposer's use of Opposer's Mark has been continuous and has not been abandoned.

7. Applicant's Mark so resembles Opposer's Mark as to be likely when used in connection with Applicant's goods, to cause confusion, mistake or deception with consequent injury to Opposer and the public. Specifically, customers familiar with Opposer's Mark would be likely to buy Applicant's goods believing that such goods are made and sold by Opposer. Any such confusion inevitably would result in loss of sales to Opposer. Furthermore, any defect, objection or fault with Applicant's goods would necessarily reflect upon and seriously injure the reputation and diminish the goodwill that Opposer has developed in and to Opposer's Mark. Therefore, Applicant's application for registration should be denied pursuant to 15 U.S.C. §1052(d).

8. Based upon the foregoing, Opposer will be damaged by the registration of Applicant's mark, Serial No. 77/731,547.

DATED this 4TH day of MARCH, 2010.

Respectfully submitted,



PETER J. JURAN
BLANCO TACKABERY
& MATAMOROS, P.A.
110 S. Stratford Road, Fifth Floor
Winston-Salem, NC 27110
Telephone: (336) 293-9049
Facsimile: (336) 293-9030
pjj@blancolaw.com

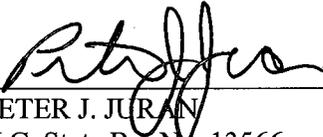
ATTORNEY FOR OPPOSER
GOLDING FARMS FOODS, INC.

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing **NOTICE OF OPPOSITION** upon counsel by depositing a copy in the United States Mail, postage pre-paid, and addressed as follows:

Harold G. Furlow
260 W. Main St., Ste. 10
Bay Shore, NY 11706-8322

This the 4th day of March, 2010.



PETER J. JURAN
N.C. State Bar No. 13566
Attorney for Opposer

OF COUNSEL:
BLANCO TACKABERY
& MATAMOROS, P.A.
P.O. Drawer 25008
Winston-Salem, NC 27114-5008
Telephone (336) 293-9000
Facsimile (336) 293-9030