

ESTTA Tracking number: **ESTTA364629**

Filing date: **08/24/2010**

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

Proceeding	91195943
Party	Defendant Barrie, Frank W
Correspondence Address	BARRIE, FRANK W 117 S PINE AVE ALBANY, NY 12208-2214  fbarrie@nycap.rr.com
Submission	Answer
Filer's Name	Frank W. Barrie
Filer's e-mail	fbarrie@nycap.rr.com
Signature	/s/ Frank W. Barrie
Date	08/24/2010
Attachments	Answer.pdf ( 4 pages )(84139 bytes )



6. The dominant words in my mark are "your food" which is in bold black lettering and is highlighted and the crucial and most meaningful word, "know".

7. The artful and creative image of the earth also distinguishes my mark from the Opposer's marks. This earth image and the words "know where your food comes from" create a potent expression of the wave of mounting concern for the future of sustainable agriculture in the United States and the world. The applicant's mark when compared in its entirety to opposer's marks cannot be confused by the public or the consumer with opposer's marks.

8. The opposer is an industrial agriculture business. At its website, [www.imiglobal.com](http://www.imiglobal.com), the opposer provides the following "business overview":

Specializes in identification and traceability, process, production practice and supply verification, document control for USDA verification programs and third party auditing services. We apply information technology to the agriculture, livestock and food industry by addressing the growing importance of marketing claims such as source of origin information, genetic background, animal treatment, animal health history, animal age, animal movements, nutrition, carbon credit and other credence attributes. Our solutions provide assurance regarding those claims made that cannot be confirmed by visual inspection once the product reaches the meat case and is marketed to the consumer. We have developed a range of proprietary web based applications, consulting methodologies, auditing processes and other services to allow the livestock and food industry to record, manage, report and audit this information. Our solutions help our customers establish their own systems, meet government regulation, create their own premium brand identity, gain cost efficiencies and command a higher price.

9. At the opposer's website, its filings with the Securities and Exchange Commission are available for review. In its Form 10-K for the year ending December 31, 2008, its business is described:

"Of the 775,000 independent suppliers of cattle in the U.S., we estimate that only 40,000 use some form of verification program. We currently provide tracking information for approximately 5,000 of the most significant independent suppliers which supply greater than 50% of the beef and other livestock products available for export markets."

Further, according to information in this Form 10-K, the opposer sells hardware products such as cattle and pig ear tags for identification purposes of individual animals which represents a substantial percentage of its revenue: 17% of its revenues for the year ending December 31, 2008. Smithfield, the largest U.S. pork packer and fifth largest beef packer was noted to be its largest customer.

10. The applicant's website, [www.knowwhereyourfoodcomesfrom.com](http://www.knowwhereyourfoodcomesfrom.com), will provide information to help nurture sustainable, local agriculture. The opposer is part of the system of industrial agriculture in the United States. The information services to be provided at the applicant's website will not be "encountered by the same persons in situations that would give rise, because of the marks used thereon, to a mistaken belief that they originate from or are in some way associated with the same source or that there is an association or connection between the sources of the respective goods or services"

(*In re Opus One, Inc.*, Trademark Trial and Appeals Board, April 5, 2001, Judge Bottorff).

11. By an Examiner's Amendment dated 05/26/2010, the applicant's application was amended to include the following disclaimer statement:

"No claim is made to the exclusive right to use 'Know Where Your Food Comes From.com' apart from the mark as shown."

12. The Opposer's claim to exclusive and monopoly rights over four words of a common and descriptive nature, where food comes from, is without merit. If the United States Patent and Trademark Office were to grant the opposer's opposition, the applicant's first amendment rights under the United States Constitution would be violated.

13. The applicant requests that the Notice of Opposition dated 08/05/2010 of Integrated Management Information, Inc. be denied.

Respectfully Submitted

Frank Barrie, The Applicant

/s/ Frank Barrie  
117 South Pine Avenue  
Albany, New York 12208  
518.438.4717

### **CERTIFICATE OF FILING**

I hereby certify that the foregoing *Answer* is being filed electronically with the United States Patent and Trademark Office- Trademark Trial and Appeal Board.

Dated August 24, 2010

/s/ Frank W. Barrie  
Frank W. Barrie, Esq.

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer has been served via U.S. mail, postage prepaid, on this 24th day of August, 2010 upon the opposer's attorney:

Cheryl L. Burbach, Esq.  
Hovey Williams LLP  
10801 Mastin Boulevard, Suite 1000  
84 Corporate Woods  
Overland Park, KS 66210

