

ESTTA Tracking number: **ESTTA365399**

Filing date: **08/27/2010**

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	Polar Corp.		
Entity	Corporation	Citizenship	Massachusetts
Address	1001 Southbridge Street Worcester, MA 01610 UNITED STATES		

Attorney information	Andrea J. Mealey Hinckley Allen & Snyder LLP 28 State Street Boston, MA 02109 UNITED STATES tmdocket@haslaw.com, amealey@haslaw.com Phone:617-345-9000
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Applicant Information

Application No	77946918	Publication date	08/03/2010
Opposition Filing Date	08/27/2010	Opposition Period Ends	09/02/2010
Applicant	WILD PENGUIN, LLC. 4 Elmhurst Place Cincinnati, OH 45208 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Frozen yogurt; Ice cream; Ice milk

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.	84705	Application Date	07/26/1910
Registration Date	12/26/1911	Foreign Priority Date	NONE
Word Mark	POLAR		

Design Mark	POLAR
Description of Mark	NONE
Goods/Services	Class U045 (International Class 032). First use: First Use: 1900/11/00 First Use In Commerce: 1900/11/00 [GINGER-ALE, SARSAPARILLA, LEMON-SODA, PLAIN SODA, BIRCH-BEER, ROOT-BEER, VICHY, SELTZER, KISSINGEN, AND] NATURAL AERATED WATER

U.S. Registration No.	1177537	Application Date	02/01/1980
Registration Date	11/10/1981	Foreign Priority Date	NONE
Word Mark	POLAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1900/11/00 First Use In Commerce: 1900/11/00 Drinking Water		

U.S. Registration No.	2743648	Application Date	05/31/2001
Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	POLAR PURE		
Design Mark	POLAR PURE		
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2001/06/00 First Use In Commerce: 2001/06/00 DRINKING WATER, PURIFIED WATER		

Attachments	71051084#TMSN.gif (1 page)(bytes) 73248484#TMSN.gif (1 page)(bytes) 76264698#TMSN.gif (1 page)(bytes) Notice of Opposition to POLAR PROTEINS (Polar Corp v Wild Penguin LLC)-881071-1.pdf (6 pages)(181869 bytes) Exhibits to Notice of Opposition to POLAR PROTEINS (Polar Corp v Wild Penguin LLC)-881072-1.pdf (28 pages)(901584 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 Overnight Courier on this date.

Signature	/Andrea J Mealey/
Name	Andrea J. Mealey
Date	08/27/2010

and seltzer water, as well as carbonated soft drinks, iced teas, and fruit juice and seltzer water blended beverages long before any date of first use upon which Applicant can rely.

2. Opposer has significant common law interest and rights in and to the term POLAR as a trademark for bottled water, seltzer water and soft drinks, and has used the mark in interstate commerce in relation to such products since at least as early as 1902.

3. Opposer is the owner of the following United States Federal Registrations:
Reg. No. 0084705 for the mark POLAR for natural aerated water in Class 32;
Reg. No. 1177537 for POLAR and Design for drinking water in Class 32; and
Reg. No. 2743648 for POLAR PURE for drinking water, purified water in Class 32.

4. Opposer is also the owner of numerous U.S. state trademark registrations for the term POLAR covering soft drinks in International Class 32 and has used POLAR in connection with soft drinks within these various states since at least as early as 1902.

5. In addition, since at least as early as January 28, 2008, Opposer has used the mark POLAR in interstate commerce in relation to its iced tea products, which include fruit flavored iced teas, and fruit juice and seltzer water blended beverages.

6. During the long and continuous use of the POLAR mark in connection with water, soft drinks and other beverages, Opposer has expended considerable time, effort and resources in the advertisement, promotion, sale and distribution of products bearing the POLAR mark.

7. As a result of Opposer's extensive and continuous use and promotion of its POLAR mark, the mark embodies substantial and valuable good will belonging exclusively to Opposer.

8. Applicant's POLAR PROTEINS mark is very similar to Opposer's POLAR mark.

9. Applicant's mark contains as its first and most prominent component, the term POLAR.

10. Because the term "POLAR" is the first term in Applicant's mark and is the first word that will be read by consumers of Applicant's product, POLAR is inevitably an integral component in the commercial impression that the mark makes on such consumers.

11. Accordingly, the commercial impression of Applicant's POLAR PROTEINS mark will be very similar to the commercial impression created by Opposer's mark, POLAR.

12. Applicant has disclaimed rights to the term "PROTEINS" apart from the mark as filed.

13. Because "PROTEINS" is disclaimed, the strength of rights in Applicant's mark is in the term "POLAR."

14. The mark POLAR PROTEINS so resembles Opposer's previously used and registered POLAR mark and creates such a similar commercial impression to Opposer's POLAR marks as to be likely, when applied to the goods set forth in Applicant's application, to cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act.

15. Applicant's Class 30 goods, "frozen yogurt; ice cream; ice milk" are related to Opposer's goods and will be related in the minds of the consuming public because the nature of the goods is very similar and such goods are often produced by one manufacturer.

16. Attached hereto as Exhibit 1 are TESS printouts of a small sampling of the numerous federal registrations for trademarks that cover both Class 30 goods such as "frozen yogurt; ice cream; ice milk" as well as Class 32 non-alcoholic beverages, including, without limitation, water, carbonated beverages, juice drinks, iced teas and other non alcoholic beverages.

17. The Opposer's and Applicant's goods will be sold in the same channels of trade, including, for example, convenience stores, grocery stores and drug stores.

18. Frozen yogurt, ice cream and ice milk and beverages are often found in close proximity to each other in a food market that sells both frozen confections and beverages.

19. The Applicant's goods are likely to be sold to the same consumers to whom Opposer sells its beverage products.

20. Given Opposer's federal registrations for POLAR for drinking water, and its longstanding and prior trademark rights in and to the POLAR mark for water, soft drinks, iced teas, seltzer water, fruit juice and seltzer blended drinks, any federal trademark registration for POLAR PROTEINS for "frozen yogurt; ice cream; ice milk," in Class 30, conferring exclusive, nationwide rights, would be improper and would interfere with Opposer's prior rights.

21. Use of such POLAR PROTEINS mark would also likely lead to the mistaken belief in the minds of consumers that Applicant's products originate with, are affiliated with or are sponsored or endorsed by Opposer.

22. Opposer will be damaged by the registration sought by the Applicant because such registration will support and assist Applicant in the confusing and misleading use of the POLAR PROTEINS mark, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

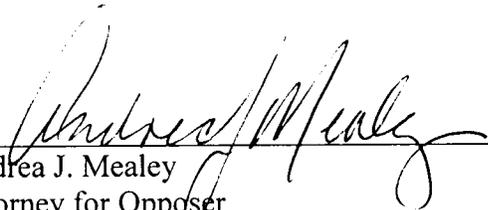
23. Registration of the POLAR PROTEINS mark therefore should be refused pursuant to Section 2(d) of the Trademark Act of 1946, as amended (15 U.S.C. §1052(d)), on the grounds that the Applicant's POLAR PROTEINS mark so resembles Opposer's POLAR mark as to be likely when used on or in connection with the goods of Applicant to cause confusion or to cause mistake or to deceive, all to the detriment of Opposer.

WHEREFORE, Opposer asserts that it will be damaged by the registration of Applicant's mark POLAR PROTEINS, and prays that this opposition be sustained and that registration of the POLAR PROTEINS mark in Class 30 be refused.

Dated: August 27, 2010

Respectfully submitted,

POLAR CORP.,



Andrea J. Mealey
Attorney for Opposer
Hinckley Allen & Snyder LLP
28 State Street
Boston, MA 02109
Phone: 617-345-9000
Fax: 617-345-9020

CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2010, a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served upon counsel of record for the Applicant by overnight mail, postage prepaid, in an envelope addressed as follows:

Matthew E. Vale, Esq.
Lafkas Patent LLC
Po Box 43289
Cincinnati, Oh 45243-0289

By: _____

Andrea J. Mealey

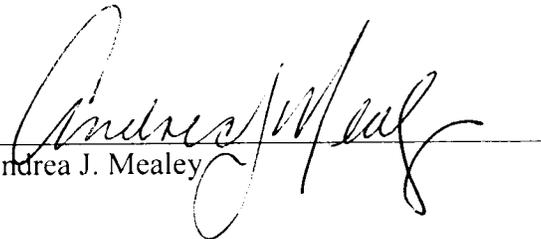
A handwritten signature in black ink, appearing to read "Andrea J. Mealey", is written over a horizontal line. The signature is cursive and stylized.

EXHIBIT 1



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MARKET PANTRY

Word Mark
Goods and Services

MARKET PANTRY

IC 029. US 046. G & S: Potato based snack foods; fruit based snack foods; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; dried fruits; processed, prepared and roasted nuts; jerky; dehydrated fruits; processed luncheon meats; meat; fish; poultry; seafood; sausages; peanut butter; fruit preserves; jellies; canned or processed olives; pickles; instant potatoes; flaked coconut; soup mixes; dried beans; canned beans with or without meat; canned vegetables; canned soups; canned or bottled fruits; cooking or vegetable oils; cheese; shortening, nondairy creamer; dips, excluding salsa and other sauces used as dips; milk; half and half, milk and cream mixture; whipped cream; condensed and evaporated milk; eggs; sour cream; cottage cheese; butter; margarine; cream cheese; frozen vegetables; prepared and or processed potatoes; frozen appetizers consisting primarily of meat, chicken, seafood, cheese, and/or vegetables; frozen appetizers consisting primarily of jalapeno peppers; non-dairy whipped topping; frozen fruit; bagged garden salads; potato salad; applesauce; frozen entrees consisting primarily of meat, fish, poultry and/or vegetables; fruit based pie filling for cakes and pies. FIRST USE: 20010731. FIRST USE IN COMMERCE: 20010731

IC 030. US 046. G & S: Candy; cookies; granola-based snack foods; granola; ready-to-eat cereal derived food bars; puddings; pastries; cake mixes; cakes; cupcakes; pies; donuts; muffins; bagels; danishes; breakfast cereals; oatmeal; pancake mixes; bakery mixes; cones for ice cream; biscuits; cinnamon rolls; sandwiches; waffles; marshmallows; confectionery chips for baking; fruit based pie filling for cakes and pies; baking powder; spices; vanilla; corn syrup; pancake syrup; baking soda; salt; sugar and sugar substitutes; powdered sugar; brown sugar; flour; rice; flavored noodle and rice mixes; flavored and sweetened gelatins; flavoring syrups; tea bags; coffee; cocoa mixes; tea; ice cream; frozen confections; frozen confections, namely, freezer pops; sherbet; tortilla chips; pretzels; corn chips; cheese flavored puffed corn snacks; microwave popcorn; crackers; breads and buns; stuffing mixes containing bread; noodles or sauce mixes or seasoning combined in unitary packages; macaroni and cheese; pizza crust; tortillas; taco shells; rice; rice and seasoning mix combined in unitary packages; pasta and noodles; pie crust; bread sticks; tea based beverages with fruit flavoring; iced tea; flavored ices; minced garlic; honey; ketchup; mustard; marinades; sauces; mayonnaise;

salad dressings; vinegar; gravy; canned spaghetti and meatballs; canned spaghetti sauce with pasta; salsa; taco seasoning; soy sauce; pasta sauce; ravioli; pizza; macaroni salad; pasta salad; macaroni and cheese dinners. FIRST USE: 20010630. FIRST USE IN COMMERCE: 20010630

IC 031. US 001 046. G & S: Fresh fruits and vegetables; raw fruits and vegetables; unprocessed fruits and vegetables. FIRST USE: 20030000. FIRST USE IN COMMERCE: 20030000

IC 032. US 045 046 048. G & S: Flavored and non-flavored bottled waters; sparkling waters; fruit juices; vegetable juices; fruit flavored drinks and juices; seltzer water; smoothies; soft drinks; fruit juice concentrates. FIRST USE: 20010630. FIRST USE IN COMMERCE: 20010630

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77737199

Filing Date May 14, 2009

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition September 8, 2009

Registration Number 3715221

Registration Date November 24, 2009

Owner (REGISTRANT) Target Brands, Inc. CORPORATION MINNESOTA TPS-3165 1000 Nicollet Mall Minneapolis MINNESOTA 55403

Attorney of Record Target Brands, Inc.

Prior Registrations 2562603;2564715;2768080

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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COLUN

Word Mark	COLUN
Translations	The wording "COLUN" has no meaning in a foreign language.
Goods and Services	IC 029. US 046. G & S: Dairy products, namely, cheese, fresh milk, skim milk, evaporated milk, condensed milk, milk powder, sour milk, milk skin, milk protein; milk substitutes, namely, soy based beverages; whey, cheese, butter and yogurt IC 030. US 046. G & S: Cakes; frozen confections; ice cream; ice cream powder; honey; baking powders; chocolate food beverages not being dairy-based or vegetable based; cocoa based beverages; coffee based beverages; flan, custard; dulce de leche IC 032. US 045 046 048. G & S: Mineral water; non-alcoholic beverages containing fruit juices; non-alcoholic beverages, namely, carbonated beverages; non-alcoholic fruit juice beverages; fruit juices and drinks; preparations for making beverages, namely, fruit drinks; concentrates, syrups and essences that are not essential oils used in the preparation of soft drinks; non-alcoholic fruit extracts used in the preparation of beverages; whey beverages
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code	LETTER-3-OR-MORE COLUN Combination of three or more letters as part of the mark
Serial Number	77725215
Filing Date	April 29, 2009
Current Filing	

Basis 44E
Original Filing Basis 44E
Published for Opposition April 20, 2010
Registration Number 3812774
Registration Date July 6, 2010
Owner (REGISTRANT) COOPERATIVA AGRICOLA Y LECHERA DE LA UNION LIMITADA cooperative corporation CHILE Esmeralda 641 La Unión CHILE
Attorney of Record Arturo Perez-Guerrero
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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HOOD

Word Mark HOOD

Goods and Services IC 029. US 046. G & S: AERATED CREAM; CHEESE; COTTAGE CHEESE; CULTURED BUTTERMILK; DAIRY CREAMERS; EGGNOG; FLUID CREAM; FLUID MILK; HALF AND HALF; LOW-FAT COTTAGE CHEESE; LOW-FAT YOGURT; NON-DAIRY CREAMERS; NON-FAT COTTAGE CHEESE; SOUR CREAM; LOW-FAT SOUR CREAM; FAT-FREE SOUR CREAM; YOGURT; DAIRY-BASED DRINKS AND BEVERAGES. FIRST USE: 19720831. FIRST USE IN COMMERCE: 19720831

IC 030. US 046. G & S: DAIRY SHAKES AND DAIRY SHAKE MIXES; FLAVORED WATER ICES; FROZEN LOW-FAT YOGURT; FROZEN NON-FAT YOGURT; FROZEN YOGURT; FROZEN YOGURT CONFECTIONS; FROZEN YOGURT CONFECTIONS IN STICK FORM; FROZEN YOGURT AND ICE CREAM MIXES; ICE CREAM; ICE CREAM BAR CONFECTIONS; ICE CREAM CONFECTIONS IN STICK FORM; ICE CREAM SANDWICHES AND SUNDAES; LIGHT ICE CREAM; MILK SHERBET; MIXES AND FLAVORINGS FOR MAKING FROZEN YOGURT; MIXES AND FLAVORINGS FOR MAKING ICE CREAM; CULTURED MILK MIXES AND FLAVORINGS FOR MAKING FROZEN YOGURT; NON-FAT ICE CREAM; SHERBET; WATER ICE AND FROZEN CONFECTIONS IN STICK, SANDWICH, OR IN BAR FORM; FROZEN DAIRY DESSERTS; ICED TEA. FIRST USE: 19720831. FIRST USE IN COMMERCE: 19720831

IC 032. US 045 046 048. G & S: APPLE JUICE; BOTTLED WATER; NATURAL SPRING WATER; FRUIT JUICE DRINKS; MIXED FRUIT JUICE; ORANGE JUICE. FIRST USE: 19970831. FIRST USE IN COMMERCE: 19970831

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77716062

Filing Date April 17, 2009
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition December 15, 2009
Registration Number 3754004
Registration Date March 2, 2010
Owner (REGISTRANT) HP Hood LLC LIMITED LIABILITY COMPANY DELAWARE Six Kimball Lane
 Lynnfield MASSACHUSETTS 01940
Attorney of Record Robert M. O'Connell, Jr.
Prior Registrations 0645833;2071426;2719266;AND OTHERS
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Word Mark LOVERS PREMIUM QUALITY

Goods and Services IC 029. US 046. G & S: Acidophilus milk; Candied fruit; Candied fruit snacks; Candied nuts; Condensed milk; Cranberry sauce; Dairy-based beverages; Dairy-based chocolate food beverages; Dairy-based dips; Dairy-based food beverages; Dehydrated fruit snacks; Egg nog; Evaporated milk; Fermented milk; Fig and date roll consisting of dried fruits, nuts, and spices; Fruit and soy based snack food; Fruit concentrates and purees used as ingredients of foods; Fruit conserves; Fruit leathers; Fruit paste; Fruit pectin; Fruit topping; Fruit-based filling for cakes and pies; Fruit-based food beverage; Fruit-based snack food; Fruit-based spreads; Fruits preserved in alcohol; Glazed fruits; Goat milk; Guava paste; Half and half; Hemp milk used as a milk substitute; Jams; Jams and marmalades; Jellies; Jellies and jams; Jellies for food; Jellies, jams; Jelly made from devils' tongue root (konnyaku); Kefir; Lactic acid bacteria drinks; Lactic acid drinks; Marmalade; Marmalades; Marmalades and jams; Milk based beverages containing fruit juice; Milk beverages containing fruits; Milk beverages with high milk content; Milk curd; Milk drinks containing fruits; Milk powder; Milk powder for nutritional purposes; Milk proteins; Milk-based beverage containing coffee; Milk-based beverages containing milk concentrates, vegetable oil and added nutrients; Non-dairy creamer; Nut and seed-based snack bars; Nut-based milk; Nut-based snack foods, namely, nut clusters; Nut-based snack foods, namely, nut crisps; Powdered milk; Powdered milk for food purposes; Prepared coconut; Prepared nuts; Prepared pistachio; Prepared walnuts; Processed almonds; Processed apples; Processed apricots; Processed bee pollen for food purposes; Processed blueberries; Processed cactus for food purposes; Processed cherries; Processed coconut; Processed dates. Processed fruit- and nut-based food bars; Processed fruits; Processed lemongrass; Processed lemons; Processed mangos; Processed nuts; Processed oranges; Processed papayas; Processed peaches; Processed peels; Processed yams; Rice milk for use as a milk substitute; Roasted nuts; Sheep milk; Shelled nuts; Snack mix consisting of dehydrated fruit and processed nuts; Snack mix consisting of primarily of processed nuts and salted squash seeds and also including toasted corn; Snack mix consisting of wasabi peas, processed nuts, dehydrated fruit and/or raisins; Snack mix consisting primarily of dehydrated fruits, processed nuts and also including sesame sticks; Snack mix consisting primarily of processed fruits, processed nuts and/or raisins; Sour cream; Soy-based food bars; Soy-based food bars also containing grain, dried fruits, chocolate, nuts; Soy-based food beverage used as a milk substitute; Soy-based snack foods; Soya milk; Whipped cream; Whipped topping; Whipping cream

IC 030. US 046. G & S: Cones for ice cream; Ice-cream cakes; Italian ice; Shaved ice confections; Soy-based ice cream substitute

IC 032. US 045 046 048. G & S: Aerated fruit juices; Aerated water; Ale; Ale and porter; Ales; Bottled artesian water; Coconut milk; Coconut water; Coffee-flavored ale; Coffee-flavored soft drink; Colas; Concentrated fruit juice; Concentrates, syrups or powders used in the preparation of soft drinks; Corn-based beverages not for food purposes (chicha morada); De-alcoholized wines; Distilled drinking water; Drinking water with vitamins; Energy drinks; Flavored bottled water; Flavored waters; Flavored mineral water; Flavored waters; Frozen fruit beverages; Frozen fruit-based beverages; Fruit beverages; Fruit concentrates and purees used as ingredients of beverages; Fruit flavored drinks; Fruit flavored soft drinks; Fruit flavored drinks; Fruit juice bases; Fruit juice concentrates; Fruit-based soft drinks flavored with tea; Fruit-flavored beverages; Fruit-flavored beverages; Ginger ale; Glacial water; Grape juice beverages; Grape must; Guarana drinks; Herbal juices; Horchata; Ice cream soda; Iced fruit beverages; Isotonic beverages; Isotonic drinks; Juice base concentrates; Lemon squash; Lemonade; Lemonades; Mineral and aerated water; Mineral and aerated waters; Mineral and carbonated waters; Mineral water; Mixed fruit juice; Non-alcoholic beverages containing fruit juices; Non-alcoholic beverages with tea flavor; Non-alcoholic cocktail mixes; Non-alcoholic cocktails; Non-alcoholic cocktails, namely, mocktails; Non-alcoholic fruit extracts used in the preparation of beverages; Non-alcoholic honey-based beverages; Non-alcoholic malt beverage; Non-alcoholic malt coolers; Non-alcoholized wines; Non-carbonated, non-alcoholic frozen flavored beverages; Pop; Powders used in the preparation of isotonic sports drinks and sports beverages; Quinine water; Ramune (Japanese soda pops); Sarsaparilla; Scented water for making beverages; Seltzer water; Smoothies; Soda pops; Soda water; Soft drinks; Soft drinks flavored with tea. Soft drinks, namely, carbonated soft drinks, low calorie soft drinks, non-carbonated soft drinks.; Soy-based beverages not being milk substitutes; Sparkling water; Sports drinks; Spring water; Still water; Still waters; Sweet cider; Syrup for making lemonade; Syrups for beverages; Syrups for making beverages; Syrups for making soft drinks; Syrups for making whey-based beverages; Table water; Table waters; Tomato juice; Tomato juice beverages; Whey beverages

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 02.11.13 - Hearts used as backgrounds or carriers
26.13.21 - Quadrilaterals that are completely or partially shaded

Serial Number 77581290

Filing Date September 29, 2008

Current Filing Basis 1B

Original Filing Basis 1B

Published for Opposition August 11, 2009

Owner (APPLICANT) LOVERS INDUSTRIAL INTERNATIONAL, CORP. CORPORATION BAHAMAS 7615 SW 193 LANE MIAMI FLORIDA 33157

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Albert Bordas, Esq.

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PREMIUM QUALITY" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the wording "LOVERS PREMIUM QUALITY" in a stylized font. The wording "LOVERS" appears within a design of a combined heart- and quadrilateral-shaped carrier. The wording "PREMIUM QUALITY" appears immediately below.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead
Indicator LIVE

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Word Mark	WILD BREEZE
Goods and Services	<p>IC 029. US 046. G & S: Dairy, yogurt, milk and cream based beverages; milk and cream-based beverages containing coffee; milk-based beverages containing fruit juice; milk beverages and milk drinks containing fruits. FIRST USE: 20080408. FIRST USE IN COMMERCE: 20080408</p> <p>IC 030. US 046. G & S: Ice cream drinks and milkshakes; coffee- and espresso-based beverages containing milk and cream; beverages made of tea and coffee; cocoa- and chocolate-based beverages with milk; tea-based beverages with fruit flavoring. FIRST USE: 20080408. FIRST USE IN COMMERCE: 20080408</p> <p>IC 032. US 045 046 048. G & S: Frozen fruit and frozen fruit-based beverages; fruit flavored beverages; smoothies; non-alcoholic carbonated beverages, namely, soft drinks; non-alcoholic beverages containing fruit juices; non-carbonated, non-alcoholic frozen flavored beverages; soft drinks, namely, non-carbonated soft drinks; non-alcoholic beverages with tea flavor; non-alcoholic fruit beverages. FIRST USE: 20080408. FIRST USE IN COMMERCE: 20080408</p>
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	<p>11.03.01 - Glasses without stems</p> <p>26.01.26 - Coils; Spirals; Swirls</p> <p>26.17.06 - Bands, diagonal; Bars, diagonal; Diagonal line(s), band(s) or bar(s); Lines, diagonal</p> <p>27.01.04 - Letters forming objects; Numbers forming objects; Objects composed of letters or numerals; Punctuation forming objects</p>
Trademark Search Facility Classification Code	<p>ART-11.01 Knives; forks; spoons; kitchen utensils (Non-electric)</p> <p>ART-11.03 Containers for beverages; plates and dishes; cooking and serving ware (Non-electric)</p> <p>INAN Inanimate objects such as lighting, clouds, footprints, atomic configurations, snowflakes, rainbows, flames</p> <p>SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles</p> <p>SHAPES-COLORS-3-OR-MORE Design listing or lined for three or more colors</p>

SHAPES-MISC Miscellaneous shaped designs

Serial Number 77488544

Filing Date June 2, 2008

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition October 28, 2008

Registration Number 3608374

Registration Date April 21, 2009

Owner (REGISTRANT) Wildflower Bread Company CORPORATION ARIZONA 7755 E. Gray Road Scottsdale ARIZONA 85260

Attorney of Record Alicia M. Corbett

Description of Mark The color(s) orange, white and purple is/are claimed as a feature of the mark. The mark consists of the words "Wild" and "Breeze" in orange with white speckles, between which is a stylized cup with a straw outlined in purple and white inside.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Aug 26 04:05:46 EDT 2010

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Record 1 out of 1

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SWEET-INFUSED FRUITS

Word Mark	SWEET-INFUSED FRUITS
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Nutraceuticals for use as a dietary supplement; pharmaceuticals for the treatment of post-surgery recovery and glycemic balance thereof by way of enhanced delivery of electrolytes and nutrients. FIRST USE: 20080501. FIRST USE IN COMMERCE: 20080501
	IC 030. US 046. G & S: Low glycemic foods for human consumption, namely, snack-size cakes, cookies, cheese crackers, animal crackers, pudding, frozen yogurt, candies, chocolate bars, ice cream, gummy candy, candy fruit rolls, frozen confections. FIRST USE: 20080501. FIRST USE IN COMMERCE: 20080501
	IC 032. US 045 046 048. G & S: Low glycemic beverages, namely, sports drinks, carbonated soft drinks, coffee drinks, flavored water, energy drinks, thermogenic soft drinks. FIRST USE: 20080501. FIRST USE IN COMMERCE: 20080501
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code	NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks
Serial Number	77453287
Filing Date	April 21, 2008
Current Filing Basis	1A

Original Filing Basis 1B
Published for Opposition September 15, 2009
Registration Number 3807615
Registration Date June 22, 2010
Owner (REGISTRANT) Nutrilab Corporation CORPORATION FLORIDA 111 2nd Avenue N.E. Suite 512 St. Petersburg FLORIDA 337014360
Attorney of Record Corey K. Cho
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FRUITS" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TESS was last updated on Thu Aug 26 04:05:46 EDT 2010

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Record 1 out of 1

[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)



Word Mark	DOLE
Goods and Services	IC 029. US 046. G & S: Canned or bottled fruits; Cut fruits; Dried fruits; Frozen fruits; Processed vegetables and fruits; Cut vegetables; Vegetable salads. FIRST USE: 19860728. FIRST USE IN COMMERCE: 19860728
	IC 030. US 046. G & S: Fruit ices; Frozen dessert consisting of fruit and cream or cream substitutes; Coffee beans; Ground coffee beans; Chocolate and chocolates; Chocolate bars. FIRST USE: 19850601. FIRST USE IN COMMERCE: 19850601
	IC 031. US 001 046. G & S: Fresh fruit and vegetables; Cut flowers; Live flower arrangements. FIRST USE: 19841010. FIRST USE IN COMMERCE: 19841010
	IC 032. US 045 046 048. G & S: Aerated fruit juices; Frozen fruit beverages; Fruit beverages; Fruit concentrates and purees used as ingredients of beverages; Fruit drinks and juices; Fruit juice bases; Fruit juice concentrates; Non-alcoholic beverages containing fruit juices. FIRST USE: 19850531. FIRST USE IN COMMERCE: 19850531
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	01.05.25 - Sun, other representations of the sun 26.17.13 - Letters or words underlined and/or overlined by one or more strokes or lines; Overlined words or letters; Underlined words or letters 27.03.05 - Objects forming letters or numerals
Trademark Search Facility Classification Code	INAN Inanimate objects such as lighting, clouds, footprints, atomic configurations, snowflakes, rainbows, flames SHAPES-ASTRO Astronomical shapes consisting of celestial bodies, globes and geographical maps SHAPES-BAR-BANDS Designs with bar, bands or lines

Serial Number 77400899
Filing Date February 19, 2008
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition May 13, 2008
Registration Number 3476565
International Registration Number 0972948
Registration Date July 29, 2008
Owner (REGISTRANT) Dole Food Company, Inc. CORPORATION DELAWARE One Dole Drive Westlake Village CALIFORNIA 91362
Assignment Recorded ASSIGNMENT RECORDED
Prior Registrations 1334608;1494440;1568638;AND OTHERS
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the word "Dole" with a sun emanating from the center of the letter "o" and a bar below and extending the length of the word.
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TESS was last updated on Thu Aug 26 04:05:46 EDT 2010

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Record 1 out of 1

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FROG SPIT

Word Mark	FROG SPIT
Goods and Services	IC 030. US 046. G & S: Ice cream; Sherbet; Sorbet. FIRST USE: 20070801. FIRST USE IN COMMERCE: 20070801
	IC 032. US 045 046 048. G & S: Bottled water; Fruit drinks. FIRST USE: 20030124. FIRST USE IN COMMERCE: 20030124
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77332664
Filing Date	November 19, 2007
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	April 29, 2008
Registration Number	3677217
Registration Date	September 1, 2009
Owner	(REGISTRANT) General Container Company, LLC LIMITED LIABILITY COMPANY MICHIGAN 1615 Osborn Street Hillsdale MICHIGAN 49242
Attorney of Record	Thomas N. Young
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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| [HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



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[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Aug 26 04:05:46 EDT 2010

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Record 1 out of 1

TARR Status **ASSIGN Status** **TDR** **TTAB Status** (Use the "Back" button of the Internet Browser to return to TESS)

Driftwood

Word Mark	DRIFTWOOD
Goods and Services	IC 029. US 046. G & S: Dairy products, namely, milk, manufacturing cream, cottage cheese, sour cream, yogurt, whipped cream, cheese and butter. FIRST USE: 20070904. FIRST USE IN COMMERCE: 20070904
	IC 030. US 046. G & S: Ice cream mix. FIRST USE: 20070904. FIRST USE IN COMMERCE: 20070904
	IC 032. US 045 046 048. G & S: Bottled drinking water; drinking water; fruit beverages; fruit-flavored beverages. FIRST USE: 20070904. FIRST USE IN COMMERCE: 20070904
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77976892
Filing Date	June 8, 2007
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	May 20, 2008
Registration Number	3620840
Registration Date	May 12, 2009

Owner (REGISTRANT) Driftwood Dairy, Inc. CORPORATION CALIFORNIA 10724 E. Lower Azusa Rd.
EI Monte CALIFORNIA 91731

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Martin R. Bader

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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| [HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



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[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Aug 26 04:05:46 EDT 2010

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Record 1 out of 1

[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

THE SILO

Word Mark	THE SILO
Goods and Services	IC 030. US 046. G & S: Ice Cream. FIRST USE: 20060901. FIRST USE IN COMMERCE: 20060901
	IC 032. US 045 046 048. G & S: Ice cream soda, soda pop, and soda water. FIRST USE: 20060901. FIRST USE IN COMMERCE: 20060901
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	76668297
Filing Date	October 30, 2006
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	July 17, 2007
Registration Number	3300573
Registration Date	October 2, 2007
Owner	(REGISTRANT) APPLGATE, INC. CORPORATION NEW JERSEY 616 Grove Street Upper Montclair NEW JERSEY 07043
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Mark J. Ingber
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



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[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Aug 26 04:05:46 EDT 2010

TESS HOME **NEW USER** **STRUCTURED** **FREE FORM** **BROWSE DICT** **SEARCH OG** **BOTTOM** **HELP**

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Record 1 out of 1

TARR Status **ASSIGN Status** **TDR** **TTAB Status** (Use the "Back" button of the Internet Browser to return to TESS)

Wild Breezes

Word Mark WILD BREEZES
Goods and Services IC 029. US 046. G & S: dairy, yogurt, milk and/or cream based beverages; milk and/or cream-based beverages containing coffee; milk-based beverages containing fruit juice; milk beverages and/or drinks containing fruits. FIRST USE: 20061017. FIRST USE IN COMMERCE: 20061017

IC 030. US 046. G & S: ice cream drinks and milkshakes; coffee- and/or espresso-based beverages containing milk and/or cream; beverages made of tea and/or coffee; cocoa and/or chocolate beverages with milk; tea-based beverages with fruit flavoring. FIRST USE: 20061017. FIRST USE IN COMMERCE: 20061017

IC 032. US 045 046 048. G & S: frozen fruit and frozen fruit-based beverages; fruit flavored beverages; smoothies; non-alcoholic carbonated beverages, namely, soft drinks; non-alcoholic beverages containing fruit juices; non-carbonated, non-alcoholic frozen flavored beverages; soft drinks, namely, non-carbonated soft drinks; non-alcoholic beverages with tea flavor; non-alcoholic fruit beverages. FIRST USE: 20061017. FIRST USE IN COMMERCE: 20061017

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77000752

Filing Date September 15, 2006

Current Filing Basis 1A

Original Filing Basis 1B

Published for

Opposition March 11, 2008
Registration Number 3540707
Registration Date December 2, 2008
Owner (REGISTRANT) Wildflower Bread Company CORPORATION ARIZONA 7755 E. Gray Rd. Scottsdale ARIZONA 85260
Attorney of Record Alicia M. Corbett
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Aug 26 04:05:46 EDT 2010

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SUNNY VALLEY

Word Mark	SUNNY VALLEY
Goods and Services	IC 030. US 046. G & S: Ice cream. FIRST USE: 20060918. FIRST USE IN COMMERCE: 20060918
	IC 032. US 045 046 048. G & S: Fruit juices; Fruit-flavored drinks. FIRST USE: 20060713. FIRST USE IN COMMERCE: 20060713
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78910529
Filing Date	June 16, 2006
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	January 30, 2007
Registration Number	3304665
Registration Date	October 2, 2007
Owner	(REGISTRANT) Roundy's Supermarkets, Inc. CORPORATION WISCONSIN 875 East Wisconsin Avenue Milwaukee WISCONSIN 53202
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Nicole J. Renouard
Prior Registrations	2087453
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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[| HOME](#) [| SITE INDEX](#) [| SEARCH](#) [| eBUSINESS](#) [| HELP](#) [| PRIVACY POLICY](#)



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[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Aug 26 04:05:46 EDT 2010

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OIG](#) [BOTTOM](#) [HELP](#)

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Record 1 out of 1

[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)



Word Mark	BLUE MOUNTAIN VALLEY FARMS
Goods and Services	<p>IC 029. US 046. G & S: Au jus, gravies, soup bases, broths, beef, pork, chicken, lamb, turkey, veal, fowl excepting quail, bacon, bacon pieces, barbecue meats, beef cubes, beef patties, hamburger, bologna, luncheon meats, hot dogs, sausages, meatballs, cod, haddock, salmon, tuna, perch, swordfish, lobster, clams, oysters, scallops, canned fruits, frozen fruits, canned vegetables, frozen vegetables, frozen processed potatoes, jams, jellies, fresh eggs, processed eggs, milk, butter, sour cream, flavored milks, powdered milk, non-dairy creamers, cooking oils, margarine, butter blends, mayonnaise, salad oils, processed nuts, garden salads. FIRST USE: 20070100. FIRST USE IN COMMERCE: 20070100</p> <p>IC 030. US 046. G & S: Ice cream, sherbets, sorbet, salad dressing, cocoa, sugar, sugar substitutes, honey, breakfast cereals, baking mixes, baked goods, cakes, pies, breads, flours, pastries, donuts, muffins, wheat and other grain based snack foods, candies, yeasts, baking powder, baking soda, spices, seasonings, mustards, vinegars, icings, glazes, gelatins, puddings, flavoring extracts. FIRST USE: 20070100. FIRST USE IN COMMERCE: 20070100</p> <p>IC 031. US 001 046. G & S: Fresh fruits, fresh vegetables, unprocessed nuts. FIRST USE: 20070900. FIRST USE IN COMMERCE: 20070900</p> <p>IC 032. US 045 046 048. G & S: Soft drinks, juices, flavored waters, soda pops. FIRST USE: 20070100. FIRST USE IN COMMERCE: 20070100</p>
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	06.01.04 - Mountains (landscapes); Scenery with mountains
Trademark Search Facility Classification	BLDG-AND-SCEN A type of building or a type of scenery INAN Inanimate objects such as lighting, clouds, footprints, atomic configurations, snowflakes, rainbows, flames

Code SHAPES-TRIANGLES Triangular shaped designs and marks including incomplete triangles
Serial Number 78903721
Filing Date June 8, 2006
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition January 23, 2007
Registration Number 3346153
Registration Date November 27, 2007
Owner (REGISTRANT) Feeser's, Inc. CORPORATION PENNSYLVANIA 5561 Grayson Road Harrisburg PENNSYLVANIA 17112
Attorney of Record Michael A. Doctrow
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the stylized lettering BLUE MOUNTAIN VALLEY FARMS. The word BLUE appears within the outline of a snow-capped mountain design.
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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