

ESTTA Tracking number: **ESTTA368410**

Filing date: **09/15/2010**

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	Farm Fleet Supplies, Inc.
Granted to Date of previous extension	09/15/2010
Address	5700 Saratoga Road Dubuque, IA 52002 UNITED STATES
Attorney information	Eric O. Haugen Haugen Law Firm PLLP 121 S. Eighth Street 1130 TCF Tower Minneapolis, MN 55402 UNITED STATES haugenmail@haugenlaw.com Phone:612.339.8300

Applicant Information

Application No	77894710	Publication date	05/18/2010
Opposition Filing Date	09/15/2010	Opposition Period Ends	09/15/2010
Applicant	Blain Supply, Inc. 3507 East Racine Street, P.O. Box 391 Janesville, WI 535470391 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2009/10/27 First Use In Commerce: 2009/10/27 All goods and services in the class are opposed, namely: On-line retail store services featuring animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware goods, home improvements, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture, and holiday decorations

Applicant Information

Application No	77894766	Publication date	05/18/2010
Opposition Filing Date	09/15/2010	Opposition Period Ends	
Applicant	Blain Supply, Inc. 3507 E. Racine St., P.O. Box 391 Janesville, WI 535470391 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2009/10/27 First Use In Commerce: 2009/10/27

All goods and services in the class are opposed, namely: On-line retail store services featuring animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware goods, home improvements, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture, and holiday decorations

Applicant Information

Application No	77894812	Publication date	05/18/2010
Opposition Filing Date	09/15/2010	Opposition Period Ends	
Applicant	Blain Supply, Inc. 3507 E. Racine St., P.O. Box 391 Janesville, WI 535470391 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 1955/06/01 First Use In Commerce: 1955/06/01

All goods and services in the class are opposed, namely: Retail store services featuring animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware goods, home improvements, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture, and holiday decorations

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Attachments	Notice of Opposition '710.pdf (3 pages)(43664 bytes) Notice of Opposition '766.pdf (3 pages)(42761 bytes) Notice of Opposition '812.pdf (3 pages)(42595 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	/Eric O. Haugen/
Name	Eric O. Haugen
Date	09/15/2010

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

In re Ser. No. 77/894,710 – BLAIN'S FARM & FLEET
Published May 18, 2010

_____)	
FARM FLEET SUPPLIES, INC.,)	
)	
Opposer,)	
)	
vs.)	Opposition No. _____
)	
BLAIN SUPPLY, INC.)	
)	
Applicant)	
_____)	

NOTICE OF OPPOSITION

Farm Fleet Supplies, Inc., an Iowa Corporation having a principal place of business at 5700 Saratoga Road, Dubuque, Iowa 52002 ("Opposer"), believes that it will be damaged by the registration of the designation BLAIN'S FARM & FLEET, Ser. No. 77/894,710, for "on-line retail store services featuring animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware goods, home improvements, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture and holiday decorations" in Class 035, filed December 16, 2009, and hereby opposes the same pursuant to Section 13 of the Trademark Act of 1946 (15 U.S.C. § 1063). The instant application was filed by Blain Supply, Inc., a Wisconsin Corporation having an address at 3507 East Racine Street, P.O. Box 391, Janesville, Wisconsin 53547-0391 ("Applicant").

As grounds for opposition, Opposer alleges as follows:

Opposer's Commercial Interest

1. For many decades, and since at least as early as 1962, Opposer has been a competitor and leader in the field of retail services offered through farm and fleet stores.
2. Since 1962, Opposer has operated retail store services that feature animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware related

goods, home improvement related goods, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture, and holiday-related goods. Opposer has offered these retail store services under the designations FARM FLEET and NORBY'S FARM FLEET since 1962.

3. Opposer has a real commercial interest in fully and fairly utilizing the term "farm fleet", as well as the term "farm & fleet" and "farm and fleet" in that these descriptive words and phrases are apt and proper descriptors relevant to the goods and services offered by Opposer. Opposer believes that it will be harmed if the merely descriptive term "farm & fleet", as used in the BLAIN'S FARM & FLEET designation, is allowed to register on the Principal Register in Applicant's favor without the words "FARM & FLEET" being fully disclaimed.

COUNT I

4. The "farm & fleet" portion of Applicant's designation is merely descriptive as applied to Applicant's services. The designation BLAIN'S FARM & FLEET is not entitled to registration unless and until the words "farm & fleet" are fully disclaimed from the mark.

5. While Applicant has properly disclaimed the word "farm" apart from the mark as shown because it merely describes a feature of Applicant's services, the mark has been allowed to proceed to publication in spite of the fact that the word "fleet", like the word "farm", merely describes a feature of Applicant's services, as does the term "farm & fleet".

6. The FARM & FLEET portion of Applicant's designation is simply the combination of the descriptive term "farm" that merely describes a feature of Applicant's services, namely that it offers retail services featuring *farm* supplies, and the descriptive wording "fleet" that merely describes a feature of Applicant's services, namely, that it offers retail services featuring *fleet* supplies. As such, the subject mark "BLAIN'S FARM & FLEET" is not entitled to registration without the words "farm & fleet" being disclaimed.

7. The terms "farm", "fleet", and "farm & fleet" immediately describe a function, feature, or characteristic of the services marketed by Applicant, namely that these services involve farm and fleet related items.

8. Because the term FARM & FLEET as used in Applicant's BLAIN'S FARM & FLEET designation merely describes features of Applicant's services, Serial No. 77/894,710 is not entitled to Federal Registration without a disclaimer of the descriptive term pursuant to Section 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

COUNT II

9. The allegations set forth in paragraphs 1-8 of this Notice of Opposition are incorporated as if fully set forth in this Count II of the Notice of Opposition.

10. The term "FARM & FLEET" as used in Applicant's BLAIN'S FARM & FLEET designation generically describes the nature of Applicant's services, and Serial No. 77/894,710 is not entitled to Federal Registration without a disclaimer of the generic term pursuant to Section 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

For the reasons set forth in paragraphs 1-10, Opposer believes and asserts that it will be damaged by the registration of Ser. No. 77/894,710. Accordingly, Opposer prays that this Opposition be sustained, and that Applicant be refused registration of BLAIN'S FARM & FLEET for the services set forth in the application Ser. No. 77/894,710. In the alternative, Opposer respectfully requests that this Board enter a disclaimer of the term "FARM & FLEET" as used in Applicant's mark, meaning that Applicant's mark could register but only with the subject disclaimer being associated with the mark.

Respectfully Submitted,



Date: September 15, 2010

Eric O. Haugen
HAUGEN LAW FIRM PLLP
121 South Eighth Street
1130 TCF Tower
Minneapolis, MN 55402
(612) 339-8300
Attorney for Opposer

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

In re Ser. No. 77/894,766 – FARM & FLEET
Published May 18, 2010

_____)	
FARM FLEET SUPPLIES, INC.,)	
)	
Opposer,)	
)	
vs.)	Opposition No. _____
)	
BLAIN SUPPLY, INC.)	
)	
Applicant)	
_____)	

NOTICE OF OPPOSITION

Farm Fleet Supplies, Inc., an Iowa Corporation having a principal place of business at 5700 Saratoga Road, Dubuque, Iowa 52002 ("Opposer"), believes that it will be damaged by the registration of the term FARM & FLEET, Ser. No. 77/894,766, for "on-line retail store services featuring animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware goods, home improvements, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture and holiday decorations" in Class 035, filed December 16, 2009, and hereby opposes the same pursuant to Section 13 of the Trademark Act of 1946 (15 U.S.C. § 1063). The instant application was filed by Blain Supply, Inc., a Wisconsin Corporation having an address at 3507 East Racine Street, P.O. Box 391, Janesville, Wisconsin 53547-0391 ("Applicant").

As grounds for opposition, Opposer alleges as follows:

Opposer's Commercial Interest

1. For many decades, and since at least as early as 1962, Opposer has been a competitor and leader in the field of retail services offered through farm and fleet stores.
2. Since 1962, Opposer has operated retail store services that feature animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware related

goods, home improvement related goods, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture, and holiday-related goods. Opposer has offered these retail store services under the designations FARM FLEET and NORBY'S FARM FLEET since 1962.

3. Opposer has a real commercial interest in fully and fairly utilizing the term "farm fleet", as well as the term "farm & fleet" and "farm and fleet" in that these descriptive words and phrases are apt and proper descriptors relevant to the goods and services offered by Opposer. Opposer believes that it will be harmed if the merely descriptive term "farm & fleet" is allowed to register on the Principal Register in Applicant's favor.

COUNT I

4. Applicant's designation is merely descriptive as applied to Applicant's services and is not entitled to registration.

5. While Applicant has properly disclaimed the word "farm" apart from the designation as shown because it merely describes a feature of Applicant's services, the designation has been allowed to proceed to publication in spite of the fact that the word "fleet", like the word "farm", merely describes a feature of Applicant's services, as does the term "farm & fleet".

6. Applicant's alleged mark FARM & FLEET is simply the combination of the descriptive term "farm" that merely describes a feature of Applicant's services, namely that it offers retail services featuring *farm* supplies, and the descriptive wording "fleet" that merely describes a feature of Applicant's services, namely, that it offers retail services featuring *fleet* supplies. As such, the subject term "farm & fleet" is not entitled to registration pursuant to 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

7. The terms "farm", "fleet", and "farm & fleet" immediately describe a function, feature, or characteristic of the services marketed by Applicant, namely that these services involve farm and fleet related items.

8. Because the term FARM & FLEET merely describes features of Applicant's services, Serial No. 77/894,766 covering FARM & FLEET is not entitled to Federal Registration pursuant to Section 2(e) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

COUNT II

9. The allegations set forth in paragraphs 1-8 of this Notice of Opposition are incorporated as if fully set forth in this Count II of the Notice of Opposition.

10. The term "FARM & FLEET" as used in Applicant's FARM & FLEET designation generically describes the nature of Applicant's services, and Serial No. 77/894,766 is not entitled to Federal Registration pursuant to Section 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

For the reasons set forth in paragraphs 1-10, Opposer believes and asserts that it will be damaged by the registration of Ser. No. 77/894,766 covering the term FARM & FLEET. Accordingly, Opposer prays that this Opposition be sustained, and that Applicant be refused registration of FARM & FLEET for the services set forth in the application Ser. No. 77/894,766.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "E. O. Haugen". The signature is written in a cursive style with a large initial "E" and "H".

Date: September 15, 2010

Eric O. Haugen
HAUGEN LAW FIRM PLLP
121 South Eighth Street
1130 TCF Tower
Minneapolis, MN 55402
(612) 339-8300
Attorney for Opposer

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

In re Ser. No. 77/894,812 – FARM & FLEET
Published May 18, 2010

_____)	
FARM FLEET SUPPLIES, INC.,)	
)	
Opposer,)	
)	
vs.)	Opposition No. _____
)	
BLAIN SUPPLY, INC.)	
)	
Applicant)	
_____)	

NOTICE OF OPPOSITION

Farm Fleet Supplies, Inc., an Iowa Corporation having a principal place of business at 5700 Saratoga Road, Dubuque, Iowa 52002 ("Opposer"), believes that it will be damaged by the registration of the term FARM & FLEET, Ser. No. 77/894,812, for "retail store services featuring animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware goods, home improvements, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture and holiday decorations" in Class 035, filed December 16, 2009, and hereby opposes the same pursuant to Section 13 of the Trademark Act of 1946 (15 U.S.C. § 1063). The instant application was filed by Blain Supply, Inc., a Wisconsin Corporation having an address at 3507 East Racine Street, P.O. Box 391, Janesville, Wisconsin 53547-0391 ("Applicant").

As grounds for opposition, Opposer alleges as follows:

Opposer's Commercial Interest

1. For many decades, and since at least as early as 1962, Opposer has been a competitor and leader in the field of retail services offered through farm and fleet stores.
2. Since 1962, Opposer has operated retail store services that feature animal supplies, farm supplies, agricultural products, automotive parts and supplies, hardware related

goods, home improvement related goods, appliances, electronics, hand tools, power tools, housewares, lawn and garden supplies, outdoor power equipment, sporting goods, hunting equipment, camping equipment, toys, clothing, commercial cleaning supplies, food, furniture, and holiday-related goods. Opposer has offered these retail store services under the designations FARM FLEET and NORBY'S FARM FLEET since 1962.

3. Opposer has a real commercial interest in fully and fairly utilizing the term "farm fleet", as well as the term "farm & fleet" and "farm and fleet" in that these descriptive words and phrases are apt and proper descriptors relevant to the goods and services offered by Opposer. Opposer believes that it will be harmed if the merely descriptive term "farm & fleet" is allowed to register on the Principal Register in Applicant's favor.

COUNT I

4. Applicant's designation is merely descriptive as applied to Applicant's services and is not entitled to registration.

5. While Applicant has properly disclaimed the word "farm" apart from the designation as shown because it merely describes a feature of Applicant's services, the designation has been allowed to proceed to publication in spite of the fact that the word "fleet", like the word "farm", merely describes a feature of Applicant's services, as does the term "farm & fleet".

6. Applicant's alleged mark FARM & FLEET is simply the combination of the descriptive term "farm" that merely describes a feature of Applicant's services, namely that it offers retail services featuring *farm* supplies, and the descriptive wording "fleet" that merely describes a feature of Applicant's services, namely, that it offers retail services featuring *fleet* supplies. As such, the subject term "farm & fleet" is not entitled to registration pursuant to 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

7. The terms "farm", "fleet", and "farm & fleet" immediately describe a function, feature, or characteristic of the services marketed by Applicant, namely that these services involve farm and fleet related items.

8. Because the term FARM & FLEET merely describes features of Applicant's services, Serial No. 77/894,812 covering FARM & FLEET is not entitled to Federal Registration pursuant to Section 2(e) of the Lanham Act, 15 U.S.C. § 1052(e)(1).

COUNT II

9. The allegations set forth in paragraphs 1-8 of this Notice of Opposition are incorporated as if fully set forth in this Count II of the Notice of Opposition.

10. The term "FARM & FLEET" as used in Applicant's FARM & FLEET designation generically describes the nature of Applicant's services, and Serial No. 77/894,812 is not entitled to Federal Registration pursuant to Section 2(e)(1) of the Lanham Act, 15 U.S.C. §1052(e)(1).

For the reasons set forth in paragraphs 1-10, Opposer believes and asserts that it will be damaged by the registration of Ser. No. 77/894,812 covering the term FARM & FLEET. Accordingly, Opposer prays that this Opposition be sustained, and that Applicant be refused registration of FARM & FLEET for the services set forth in the application Ser. No. 77/894,812.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "E. O. Haugen". The signature is written in a cursive style with a large "E" and "H".

Date: September 15, 2010

Eric O. Haugen
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