

ESTTA Tracking number: **ESTTA411239**

Filing date: **05/26/2011**

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

Proceeding	91196469
Party	Defendant Blain Supply, Inc.
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Submission	Answer
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Date	05/26/2011
Attachments	Answers Affirmative Defenses - all 3 apps - PDF (00415542).PDF ( 21 pages ) (951671 bytes )

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

FARM FLEET SUPPLIES, INC.,	)	Opposition No. 91196469
	)	
Opposer,	)	Mark: BLAIN’S FARM & FLEET
	)	
v.	)	
	)	App. No.: 77894710
BLAIN SUPPLY, INC.,	)	
	)	
Applicant.	)	

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**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES  
TO NOTICE OF OPPOSITION**

---

Blain Supply, Inc. (“Applicant”), for its Answer to the Notice of Opposition filed by Running Supply, Inc. (“Opposer”) states as follows:

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.

**ANSWER:** Answering paragraph 1, Applicant denies that there exists a designation of retail stores known as “farm and fleet stores” except when used in reference to the stores of Applicant and its licensees and denies knowledge and information sufficient to form a belief as to the truth of the remaining allegations and, therefore, denies those allegations.

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.

**ANSWER:** Answering paragraph 2, Applicant denies knowledge and information sufficient to form a belief as to the truth of the allegations and, therefore, denies those allegations and affirmatively alleges that if Opposer used the FARM FLEET and NORBY'S FARM FLEET designations since 1962 they have done so with full knowledge of the use of FARM & FLEET by Applicant and/or its licensees since 1958 when Applicant used the FARM & FLEET mark in Opposer's trade area.

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.

**ANSWER:** Answering paragraph 3, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Trademark Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77894710 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(F).

## 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.

**ANSWER:** Answering paragraph 4, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN’S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,710 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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.”

**ANSWER:** Answering paragraph 5, admits that Applicant disclaimed “farm” apart from the mark and that the mark was allowed to proceed to publication without the word “fleet” being disclaimed or “farm & fleet” being disclaimed, and affirmatively alleges that the PTO examiner was aware of Applicant’s Registration No. 3,009,930 and only required the disclaimer of the word “farm”; denies each and every other allegations therein.

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.

**ANSWER:** Answering paragraph 6, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN’S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,710 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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.

**ANSWER:** Answering paragraph 7, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN’S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,710 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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).

**ANSWER:** Answering paragraph 8, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,710 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

## **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.

**ANSWER:** Answering paragraph 9, Applicant realleges its answers to paragraphs 1-8 as though fully set forth herein.

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).

**ANSWER:** Answering paragraph 10, Applicant denies the allegations therein.

## **AFFIRMATIVE DEFENSES**

1. Opposer's opposition is barred by laches.
2. Opposer's opposition is barred by equitable doctrines of estoppel and/or waiver.

3. Opposer's use of the FARM FLEET component in its name was in bad faith because Opposer began using said designation with prior knowledge of Applicant's use of the FARM & FLEET mark.

4. Applicant is the senior user of the BLAIN'S FARM & FLEET and the FARM & FLEET marks in its trade areas.

5. If Opposer acquired any rights in FARM & FLEET because of its use of FARM FLEET, those rights are limited to whatever rights Opposer had acquired as of January 28, 2003, the date Applicant originally applied with United States Patent and Trademark Office for the registration of the BLAIN'S FARM & FLEET mark which is now an incontestable Trademark Registration No. 3,009,930.

WHEREFORE, Applicant respectfully requests that the Board dismiss the Opposition, that Applicant's registration continue, and that the Board grant such other and further relief that the Board deems just and proper.

Dated this 26th day of May, 2011.

**BRENNAN ■ STEIL sc.**

By:           /Nancy B. Johnson/            
Nancy B. Johnson  
George K. Steil, Jr.  
Attorneys for Blain Supply, Inc.

**MAILING ADDRESS:**  
One East Milwaukee Street  
P.O. Box 1148  
Janesville, WI 53547-1148  
Tel: (608) 756-4141  
Fax: (608) 756-9000

CERTIFICATE OF FILING AND SERVICE

I hereby certify that a copy of the foregoing Answer and Affirmative Defenses were filed via ESTTA and served upon Opposer by mailing said copies on May 26, 2011 via first class mail, postage prepaid, in an envelop addressed as follows:

Eric O. Haugen  
HAUGEN LAW FIRM PLLP  
121 South Eighth Street  
1130 TCF Tower  
Minneapolis, MN 55402

This 26th day of May, 2011

/Nancy B. Johnson/

---

Nancy B. Johnson

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

FARM FLEET SUPPLIES, INC.,	)	Opposition No. 91196469
	)	
Opposer,	)	Mark: FARM & FLEET
	)	
v.	)	App. No.: 77894766
BLAIN SUPPLY, INC.,	)	
	)	
Applicant.	)	

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**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES  
TO NOTICE OF OPPOSITION**

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Blain Supply, Inc. (“Applicant”), for its Answer to the Notice of Opposition filed by Running Supply, Inc. (“Opposer”) states as follows:

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.

**ANSWER:** Answering paragraph 1, Applicant denies that there exists a designation of retail stores known as “farm and fleet stores” except when used in reference to the stores of Applicant and its licensees and denies knowledge and information sufficient to form a belief as to the truth of the remaining allegations and, therefore, denies those allegations.

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.

**ANSWER:** Answering paragraph 2, Applicant denies knowledge and information sufficient to form a belief as to the truth of the allegations and, therefore, denies those allegations and affirmatively alleges that if Opposer used the FARM FLEET and NORBY'S FARM FLEET designations since 1962 they have done so with full knowledge of the use of FARM & FLEET by Applicant and/or its licensees since 1958 when Applicant used the FARM & FLEET mark in Opposer's trade area.

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.

**ANSWER:** Answering paragraph 3, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Trademark Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77894766 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(F).

## COUNT I

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

**ANSWER:** Answering paragraph 4, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,766 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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."

**ANSWER:** Answering paragraph 5, admits that Applicant disclaimed "farm" apart from the mark and that the mark was allowed to proceed to publication without the word "fleet" being disclaimed or "farm & fleet" being disclaimed, and affirmatively alleges that the PTO examiner was aware of Applicant's Registration No. 3,009,930 and only required the disclaimer of the word "farm"; denies each and every other allegations therein.

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 mark "farm & fleet" is not entitled to registration pursuant to 2(e)(1) of the Lanham Act, 15 U.S.C. §1052(e)(1).

**ANSWER:** Answering paragraph 6, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,766 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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.

**ANSWER:** Answering paragraph 7, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,766 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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).

**ANSWER:** Answering paragraph 8, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,766 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

## **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.

**ANSWER:** Answering paragraph 9, Applicant realleges its answers to paragraphs 1-8 as though fully set forth herein.

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).

**ANSWER:** Answering paragraph 10, Applicant denies the allegations therein.

## **AFFIRMATIVE DEFENSES**

1. Opposer's opposition is barred by laches.
2. Opposer's opposition is barred by equitable doctrines of estoppel and/or waiver.
3. Opposer's use of the FARM FLEET component in its name was in bad faith because Opposer began using said designation with prior knowledge of Applicant's use of the FARM & FLEET mark.

4. Applicant is the senior user of the BLAIN'S FARM & FLEET and the FARM & FLEET marks in its trade areas.

5. If Opposer acquired any rights in FARM & FLEET because of its use of FARM FLEET, those rights are limited to whatever rights Opposer had acquired as of January 28, 2003, the date Applicant originally applied with United States Patent and Trademark Office for the registration of the BLAIN'S FARM & FLEET mark which is now an incontestable Trademark Registration No. 3,009,930.

WHEREFORE, Applicant respectfully requests that the Board dismiss the Opposition, that Applicant's registration continue, and that the Board grant such other and further relief that the Board deems just and proper.

Dated this 26th day of May, 2011.

**BRENNAN ■ STEIL** s.c.

By: /Nancy B. Johnson/  
Nancy B. Johnson  
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Minneapolis, MN 55402

This 26th day of May, 2011

/Nancy B. Johnson/

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Nancy B. Johnson

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

FARM FLEET SUPPLIES, INC.,	)	Opposition No. 91196469
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Opposer,	)	Mark: FARM & FLEET
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v.	)	App. No.: 77894812
BLAIN SUPPLY, INC.,	)	
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Applicant.	)	

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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.

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and holiday-related goods. Opposer has offered these retail store services under the designations FARM FLEET and NORBY'S FARM FLEET since 1962.

**ANSWER:** Answering paragraph 2, Applicant denies knowledge and information sufficient to form a belief as to the truth of the allegations and, therefore, denies those allegations and affirmatively alleges that if Opposer used the FARM FLEET and NORBY'S FARM FLEET designations since 1962 they have done so with full knowledge of the use of FARM & FLEET by Applicant and/or its licensees since 1958 when Applicant used the FARM & FLEET mark in Opposer's trade area.

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.

**ANSWER:** Answering paragraph 3, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Trademark Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77894812 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(F).

## COUNT I

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

**ANSWER:** Answering paragraph 4, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,812 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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."

**ANSWER:** Answering paragraph 5, admits that Applicant disclaimed "farm" apart from the mark and that the mark was allowed to proceed to publication without the word "fleet" being disclaimed or "farm & fleet" being disclaimed, and affirmatively alleges that the PTO examiner was aware of Applicant's Registration No. 3,009,930 and only required the disclaimer of the word "farm"; denies each and every other allegations therein.

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).

**ANSWER:** Answering paragraph 6, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,812 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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.

**ANSWER:** Answering paragraph 7, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,812 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

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).

**ANSWER:** Answering paragraph 8, Applicant admits that FARM & FLEET is descriptive; denies each and every other allegation therein; and affirmatively alleges that FARM & FLEET is distinctive and has acquired secondary meaning as to Applicant; that Applicant has an incontestable US PTO Registration No. 3,009,930 for BLAIN'S FARM & FLEET in classes 35 and 37 which identifies FARM & FLEET as distinctive to Applicant; and that registration of Application Serial No. 77/894,812 should be granted pursuant to Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f).

## 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.

**ANSWER:** Answering paragraph 9, Applicant realleges its answers to paragraphs 1-8 as though fully set forth herein.

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).

**ANSWER:** Answering paragraph 10, Applicant denies the allegations therein.

## AFFIRMATIVE DEFENSES

1. Opposer's opposition is barred by laches.
2. Opposer's opposition is barred by equitable doctrines of estoppel and/or waiver.

3. Opposer's use of the FARM FLEET component in its name was in bad faith because Opposer began using said designation with prior knowledge of Applicant's use of the FARM & FLEET mark.

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WHEREFORE, Applicant respectfully requests that the Board dismiss the Opposition, that Applicant's registration continue, and that the Board grant such other and further relief that the Board deems just and proper.

Dated this 26th day of May, 2011.

**BRENNAN ■ STEIL** s.c.

By:           /Nancy B. Johnson/            
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George K. Steil, Jr.  
Attorneys for Blain Supply, Inc.

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121 South Eighth Street  
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Minneapolis, MN 55402

This 26th day of May, 2011

/Nancy B. Johnson/

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Nancy B. Johnson