

ESTTA Tracking number: **ESTTA370983**

Filing date: **09/29/2010**

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	Luberski, Inc.
Granted to Date of previous extension	09/29/2010
Address	310 North Harbor Boulevard, Suite 205 Fullerton, CA 92832 UNITED STATES

Attorney information	Darryl J. Horowitz Coleman & Horowitz, LLP 499 West Shaw Ave., Suite 116 Fresno, CA 93704 UNITED STATES dhorowitz@ch-law.com Phone:559-248-4820
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Applicant Information

Application No	77627139	Publication date	06/01/2010
Opposition Filing Date	09/29/2010	Opposition Period Ends	09/29/2010
Applicant	California Farms, LLC 22252 SD Highway 13 Flandreau, SD 57028 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. All goods and services in the class are opposed, namely: Eggs; Hen eggs

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is primarily geographically descriptive	Trademark Act section 2(e)(2)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1949889	Application Date	02/25/1993
Registration Date	01/23/1996	Foreign Priority Date	NONE
Word Mark	CALIFORNIA SUNSHINE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1989/01/01 First Use In Commerce: 1989/01/01 eggs, cheese, milk and creams, butter, whey powders, sour cream and yogurt Class 032. First use: First Use: 1989/01/01 First Use In Commerce: 1989/01/01 fruit juices

U.S. Registration No.	2642676	Application Date	12/21/2001
Registration Date	10/29/2002	Foreign Priority Date	NONE
Word Mark	CALIFORNIA RANCH		
Design Mark	CALIFORNIA RANCH		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1950/11/01 First Use In Commerce: 1950/11/01 EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT		

U.S. Registration No.	2658449	Application Date	06/07/2001
Registration Date	12/10/2002	Foreign Priority Date	NONE
Word Mark	CALIFORNIA FINEST		
Design Mark	CALIFORNIA FINEST		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT AND OTHER GOODS		

U.S. Registration No.	2692614	Application Date	01/04/2002
Registration Date	03/04/2003	Foreign Priority Date	NONE
Word Mark	CALIFORNIA RANCH FRESH		

Design Mark	CALIFORNIA RANCH FRESH
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1950/11/01 First Use In Commerce: 1950/11/01 EGGS

U.S. Registration No.	2720725	Application Date	01/09/2002
Registration Date	06/03/2003	Foreign Priority Date	NONE
Word Mark	CALIFORNIA		
Design Mark	CALIFORNIA		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1950/00/00 First Use In Commerce: 1950/00/00 EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT		

Attachments	76352486#TMSN.gif (1 page)(bytes) 76269055#TMSN.gif (1 page)(bytes) 76355301#TMSN.gif (1 page)(bytes) 76357550#TMSN.gif (1 page)(bytes) Opposition- California Natural California Proud.pdf (8 pages)(56257 bytes) ca_natural_ca_proud.op.Exhibits.pdf (33 pages)(896032 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 USPS Express Mail Post Office to Addressee on this date.

Signature	/Darryl J. Horowitz/
Name	Darryl J. Horowitz
Date	09/29/2010

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

LUBERSKI, INC., a California corporation and) doing business as HIDDEN VILLA RANCH)) Opposer,)) v.)) California Farms, LLC dba California Farms,) a California limited liability company,)) Applicant.)	Opposition No. ____ Serial No. 77627139 Mark: CALIFORNIA NATURAL CALIFORNIA PROUD Publication Date: June 1, 2010
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NOTICE OF OPPOSITION

Opposer, LUBERSKI, INC. dba HIDDEN VILLA RANCH (“HVR”), believes that it will be damaged by the registration of the mark CALIFORNIA NATURAL CALIFORNIA PROUD, Application Serial Number 77627139, which was published for opposition on June 1, 2010, and, by and through its attorneys, hereby oppose the registration under the following grounds:

THE PARTIES

1. Opposer, HVR, is a corporation, duly organized under the laws of the State of California, with a principal place of business in the City of Fullerton, State of California.
2. HVR owns the following registered trademarks in Class 29, as indicated by the accompanying copies of Registration Certificates and printouts from the “TARR” electronic databases maintained by the United States Patent and Trademark Office, marked as Exhibit “A,” “B,” “C,” “D,” and “E,” respectively:

Mark	Registration Number	Dated Registered	Goods
CALIFORNIA SUNSHINE	1,949,889	January 23, 1996	Eggs, cheese, milk and creams, butter, whey powders, sour cream and yogurt
CALIFORNIA RANCH	2,642,676	October 29, 2002	Eggs, cheese, milk and creams, butter, whey powders, sour cream and yogurt
CALIFORNIA FINEST	2,658,449	December 10, 2002	Eggs, cheese, milk and creams, butter, whey powders, sour cream and yogurt
CALIFORNIA RANCH FRESH	2,692,614	March 4, 2003	Eggs
CALIFORNIA	2,720,725	June 3, 2003	Eggs, cheese, milk and creams, butter, whey powders, sour cream and yogurt

Each of these marks is used in connection with eggs, among other goods.

3. HVR's marks CALIFORNIA, CALIFORNIA RANCH and CALIFORNIA RANCH FRESH were first used in commerce in 1950. Its mark CALIFORNIA FINEST was first used in commerce in 1985. HVR expanded its line and marks by use of its mark CALIFORNIA SUNSHINE in 1989. (For reference herein, the five trademarks owned by HVR will be referred to collectively as "CALIFORNIA MARKS.").

4. HVR continues to use its CALIFORNIA MARKS throughout the world for its products. Due to HVR's exclusive and continued use of the CALIFORNIA MARKS, some for more than fifty years, in connection with eggs and other Class 29 goods, HVR's CALIFORNIA MARKS have become distinctive for as applied to such goods by reason of substantially exclusive use and continued use by HVR. The CALIFORNIA MARKS have long been

associated with HVR's products.

5. HVR is engaged in the trade, marketing, advertising, sale, and promotion of its products throughout the United States and the world. HVR's CALIFORNIA MARKS are used in national and international publications and advertisements in association with HVR's goods.

6. Applicant, CALIFORNIA FARMS, LLC dba CALIFORNIA FARMS ("CAL FARMS") is a limited liability company, organized under the laws of the State of California with its principal place of business in the City of Flandreau, State of South Dakota. CAL FARMS is a shell egg marketing and distribution company and transacts business throughout California and the nation. CAL FARMS applied for the mark CALIFORNIA NATURAL CALIFORNIA PROUD.

PROCEDURAL HISTORY

7. Applicant, CAL FARMS, applied for the mark CALIFORNIA NATURAL CALIFORNIA PROUD on December 5, 2008, with the USPTO for "eggs and hen eggs" International Class 029. CAL FARMS filed an application under 15 U.S.C. § 1051(b). CAL FARMS claims it has a bona fide intention of use or use through the applicant's related company or licensee, the mark in commerce on or in connection with the identified goods and/or services.

8. CAL FARMS submitted a design along with the mark CALIFORNIA NATURAL CALIFORNIA PROUD consisting of a white egg with two black eyes and a black smile and yellow rays of sunshine/light that frame the egg, located between the words CALIFORNIA and NATURAL. Underneath the egg are the words CALIFORNIA PROUD.

9. On March 11, 2009, the USPTO examiner issued an Office Action requiring CAL FARMS to disclaim "CALIFORNIA NATURAL" and "CALIFORNIA" apart from the mark as

shown because it merely describes the nature of the goods provided, in that eggs provided are raised from hens on farms in California in natural environment.

10. On or about August 31, 2009, CAL FARMS submitted its response to the Office Action disclaiming the exclusive right to use “CALIFORNIA NATURAL” and “CALIFORNIA” apart from the mark shown.

11. On or about June 1, 2010, CAL FARM’s mark was published for opposition.

12. On or about May 13, 2010, HVR sent a cease and desist letter to CAL FARMS notifying it of the potential infringement of its intended use of the mark attached hereto as Exhibit “F.” A second cease and desist letter was sent to CAL FARMS on or about June 30, 2010 attached hereto as Exhibit “G.”

13. HVR believes that it will be damaged by the registration of CAL FARM’s pending mark when used in commerce with the class of goods applied for and it is likely to cause confusion, or to cause mistake, or deceive others as to HVR’s CALIFORNIA MARKS for the same or similar goods.

14. Due to HVR’s long and continued use of the CALIFORNIA MARKS, HVR’s CALIFORNIA MARKS will be damaged or diminished by the registration of CAL FARM’s pending mark.

15. CAL FARM’s pending mark is merely descriptive and is not subject to trademark registration and is similarly confusing HVR’s CALIFORNIA MARKS. Therefore, CAL FARM’s pending application for registration should be denied.

FIRST GROUND FOR OPPOSITION

16. HVR incorporates paragraphs 1 through 15 as fully set forth herein.

17. CAL FARM's mark, as used in connection with goods, is merely geographically descriptive, pursuant to 15 U.S.C. § 1052(e).

18. CAL FARM's mark merely signifies the origin of the goods and is not unique or fanciful. Further, CAL FARM's allegedly has not used the mark in commerce and therefore has not asserted distinctiveness or that the mark has acquired a secondary meaning.

SECOND GROUND FOR OPPOSITION

19. HVR incorporates paragraphs 1 through 18 as fully set forth herein.

20. CAL FARM's mark closely resembles and incorporates HVR's CALIFORNIA MARKS and is intended to be used in the same Class of Goods. Registration of CAL FARM's mark therefore will likely cause confusion, mistake, or deceit within the meaning of 15 U.S.C. § 1052(d). Based on the foregoing, the CAL FARM's registration should be denied.

THIRD GROUND FOR OPPOSITION

21. HVR incorporates paragraphs 1 through 20 as fully set forth herein.

22. As set forth above, HVR has used its CALIFORNIA MARKS exclusively and continuously, some as early as 1950. The mark CALIFORNIA SUNSHINE was registered in 1996. HVR's products have long been associated with the CALIFORNIA MARKS. HVR has achieved distinctiveness and renown for the CALIFORNIA MARKS through extensive advertising, excessive sale of its products for over half a century and has been long recognized as one of the leading distributors of eggs, cheese, milk and creams, butter, whey powders, sour cream and yogurt under its CALIFORNIA MARKS. HVR's CALIFORNIA MARKS are distinctive and nationally known and have been renowned prior to CAL FARM's use or intended use of its mark.

23. The goods in which the marks are connected are the same or substantially related. Both parties conduct business in competing markets and the registration of CAL FARM's mark will therefore cause confusion or deceive consumers and likely dilute HVR's CALIFORNIA MARKS.

24. Registration of CAL FARM's pending mark is likely to dilute the distinctive quality or blur the distinctiveness of HVR's CALIFORNIA MARKS pursuant to 15 U.S.C. § 1063.

WHEREFORE, HVR prays for relief as follows:

1. The Board sustains HVR's opposition;
2. The registration of CAL FARM's application for the mark, CALIFORNIA NATURAL CALIFORNIA PROUD, Serial No. 77627139, be refused; and,
3. For such other relief that the Board may deem just and proper.

Respectfully submitted,

Dated: September 29, 2010

By: /s/Darryl J. Horowitz
DARRYL J. HOROWITT
COLEMAN & HOROWITT, LLP
499 West Shaw Avenue, Suite 116
Fresno, California 93704
(559)-248-4820
Dhorowitz@ch-law.com
*Attorneys for Luberski, Inc., a
California Corporation dba Hidden
Villa Ranch*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Notice of Opposition to Serial No. 77627139, in re: Luberski, Inc., a California corporation and doing business as Hidden Villa Ranch was forwarded by email and U.S. Express Mail by depositing the same with the U.S. Postal Service on this 29th day of September, 2010, to the attorney for Applicant at the following address:

J. Steven Rice
Perkins Williams Rice, PLLC
425 West Capitol, Suite 3000
Little Rock, AR 72201
srice@pwrpllc.com

/s/Renee Wolf
RENEE WOLF

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this Notice of Opposition to registration of the mark in Application, Serial No. 77627139 is being filed electronically today, September 29, 2010, on the Electronic System for Trademark Trials and Appeals for the United States Patent and Trademark Office.

/s/Darryl J. Horowitz
DARRYL J. HOROWITT

Int. Cls.: 29 and 32

Prior U.S. Cls.: 45 and 46

United States Patent and Trademark Office

Reg. No. 1,949,889

Registered Jan. 23, 1996

**TRADEMARK
PRINCIPAL REGISTER**

CALIFORNIA SUNSHINE

LUBERSKI, INC. (CALIFORNIA CORPORATION), DBA CALIFORNIA SUNSHINE
ULTRA FRESH DAIRY PRODUCTS
310 N. HARBOR BOULEVARD, 750 N. DIAMOND BAR, SUITE 220
DIAMOND BAR, CA 91765

FOR: EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT, IN CLASS 29 (U.S. CL. 46).

FIRST USE 1-1-1989, FIRST USED IN ANOTHER FORM IN 1953; IN COMMERCE 1-1-1989, FIRST USED IN COMMERCE IN ANOTHER FORM IN 1953.

FOR: FRUIT JUICES, IN CLASS 32 (U.S. CL. 45).

FIRST USE 1-1-1989, FIRST USED IN ANOTHER FORM IN 1953; IN COMMERCE 1-1-1989, FIRST USED IN COMMERCE IN ANOTHER FORM IN 1953.

SEC. 2(F) AS TO "CALIFORNIA".

SER. NO. 74-361,942, FILED 2-25-1993.

DARLENE BULLOCK, EXAMINING ATTORNEY

EXHIBIT "A"

Serial No.: 77627139; Case Name: Luberski, Inc., a California corporation and doing business as Hidden Villa Ranch v. California Farms, LLC dba California Farms, a California limited company; Offered by: Luberski, Inc.

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2010-09-29 17:31:50 ET

Serial Number: 74361942 Assignment Information Trademark Document Retrieval

Registration Number: 1949889

Mark (words only): CALIFORNIA SUNSHINE

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2005-03-31

Filing Date: 1993-02-25

Transformed into a National Application: No

Registration Date: 1996-01-23

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 834 -Post Registration

Date In Location: 2005-03-31

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Luberski, Inc.

DBA/AKA/TA/Formerly: DBA California Sunshine Ultra Fresh Dairy Products

Address:

Luberski, Inc.

301 North Harbor Boulevard Suite 205

Fullerton, CA 92832

United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 029**Class Status:** Active

eggs, cheese, milk and creams, butter, whey powders, sour cream and yogurt

Basis: 1(a)**First Use Date:** 1989-01-01**First Use in Commerce Date:** 1989-01-01**Used Anywhere in Another Form:** First used in another form in 1953**Used in Commerce in Another Form:** First used in commerce in another form in 1953**International Class:** 032**Class Status:** Active

fruit juices

Basis: 1(a)**First Use Date:** 1989-01-01**First Use in Commerce Date:** 1989-01-01**Used Anywhere in Another Form:** First used in another form in 1953**Used in Commerce in Another Form:** First used in commerce in another form in 1953

ADDITIONAL INFORMATION

Section 2(f), in part, as to "CALIFORNIA"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-13 - Attorney Revoked And/Or Appointed

2010-08-13 - TEAS Revoke/ Appoint Attorney Received

2005-03-31 - First renewal 10 year

2005-03-31 - Section 8 (10-year) accepted/ Section 9 granted

2005-03-31 - Assigned To Paralegal

2005-02-07 - Combined Section 8 (10-year)/Section 9 filed
2005-02-07 - Combined Section 8 (10-year)/Section 9 filed
2005-02-07 - PAPER RECEIVED
2005-01-11 - TEAS Change Of Owner Address Received
2002-06-25 - Section 8 (6-year) accepted & Section 15 acknowledged
2002-02-20 - Section 8 (6-year) and Section 15 Filed
1996-01-23 - Registered - Principal Register
1994-06-13 - Extension Of Time To Oppose Received
1994-05-24 - Published for opposition
1994-04-22 - Notice of publication
1994-03-07 - Assigned To Examiner
1994-02-06 - Approved for Pub - Principal Register (Initial exam)
1994-01-07 - Communication received from applicant
1993-09-20 - Non-final action mailed
1993-09-18 - Assigned To Examiner
1993-09-10 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Darryl J. Horowitz, Esq.

Correspondent

Darryl J. Horowitz, Esq.

Coleman & Horowitz, LLP

Suite 116

499 West. Shaw Ave.

Fresno CA 93704

Phone Number: 559-248-4820

Fax Number: 559-248-4830

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,642,676

Registered Oct. 29, 2002

TRADEMARK
PRINCIPAL REGISTER

CALIFORNIA RANCH

LUBERSKI, INC. (CALIFORNIA CORPORATION)
310 NORTH HARBOR BOULEVARD, SUITE 100
FULLERTON, CA 92834

FOR: EGGS, CHEESE, MILK AND CREAMS,
BUTTER, WHEY POWDERS, SOUR CREAM AND
YOGURT, IN CLASS 29 (U.S. CL. 46).

FIRST USE 11-1-1950; IN COMMERCE 11-1-1950.

SEC. 2(F) AS TO "CALIFORNIA".

SER. NO. 76-352,486, FILED 12-21-2001.

CAROLYN GRAY, EXAMINING ATTORNEY

EXHIBIT "B"

Serial No.: 77627139; Case Name: Luberski, Inc., a
California corporation and doing business as Hidden
Villa Ranch v. California Farms, LLC, dba California
Farms, a California limited company; Offered by:
Luberski, Inc.



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Typed Drawing

Word Mark CALIFORNIA RANCH
Goods and Services IC 029. US 046. G & S: EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT. FIRST USE: 19501101. FIRST USE IN COMMERCE: 19501101
Mark Drawing Code (1) TYPED DRAWING
Serial Number 76352486
Filing Date December 21, 2001
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition August 6, 2002
Registration Number 2642676
Registration Date October 29, 2002
Owner (REGISTRANT) Luberski, Inc. CORPORATION CALIFORNIA Suite 100 310 North Harbor Boulevard Fullerton CALIFORNIA 92834
Attorney of Record Darryl J. Horowitz, Esq.
Type of Mark TRADEMARK
Register PRINCIPAL-2(F)-IN PART
Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE
Distinctiveness Limitation Statement as to "CALIFORNIA"

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Serial Number: 76352486 Assignment Information Trademark Document Retrieval

Registration Number: 2642676

Mark (words only): CALIFORNIA RANCH

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2008-10-08

Filing Date: 2001-12-21

Transformed into a National Application: No

Registration Date: 2002-10-29

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-10-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Luberski, Inc.

Address:

Luberski, Inc.
Suite 100 310 North Harbor Boulevard
Fullerton, CA 92834
United States
Legal Entity Type: Corporation
State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 029

Class Status: Active

EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT

Basis: 1(a)

First Use Date: 1950-11-01

First Use in Commerce Date: 1950-11-01

ADDITIONAL INFORMATION

Section 2(f), in part, as to "CALIFORNIA"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-13 - Attorney Revoked And/Or Appointed

2010-08-13 - TEAS Revoke/ Appoint Attorney Received

2008-10-08 - Section 8 (6-year) accepted & Section 15 acknowledged

2008-10-06 - Assigned To Paralegal

2008-10-03 - TEAS Section 8 & 15 Received

2008-06-17 - Case File In TICRS

2002-10-29 - Registered - Principal Register

2002-08-06 - Published for opposition

2002-07-17 - Notice of publication

2002-06-03 - Approved for Pub - Principal Register (Initial exam)

2002-04-29 - Communication received from applicant

2002-04-29 - PAPER RECEIVED

2002-03-26 - Non-final action mailed

2002-03-21 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Darryl J. Horowitz, Esq.

Correspondent

Darryl J. Horowitz, Esq.

Coleman & Horowitz, LLP

Suite 116

499 West. Shaw Ave.

Fresno CA 93704

Phone Number: 559-248-4820

Fax Number: 559-248-4830

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,658,449

Registered Dec. 10, 2002

TRADEMARK
PRINCIPAL REGISTER

CALIFORNIA FINEST

LUBERSKI, INC. (CALIFORNIA CORPORATION)
310 NORTH HARBOR BOULEVARD, SUITE 100
FULLERTON, CA 92834

FOR: EGGS, CHEESE, MILK AND CREAMS,
BUTTER, WHEY POWDERS, SOUR CREAM AND
YOGURT AND OTHER GOODS, IN CLASS 29 (U.S.
CL. 46).

FIRST USE 0-0-1985; IN COMMERCE 0-0-1985.

SEC. 2(F).

SER. NO. 76-269,055, FILED 6-7-2001.

CAROLYN GRAY, EXAMINING ATTORNEY

EXHIBIT "C"

Serial No.: 77627139; Case Name: Luberski, Inc., a
California corporation and doing business as Hidden
Villa Ranch v. California Farms, LLC, dba California
Farms, a California limited company; Offered by:
Luberski, Inc.



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Typed Drawing

Word Mark	CALIFORNIA FINEST
Goods and Services	IC 029. US 046. G & S: EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT AND OTHER GOODS. FIRST USE: 19850000. FIRST USE IN COMMERCE: 19850000
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76269055
Filing Date	June 7, 2001
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	September 17, 2002
Registration Number	2658449
Registration Date	December 10, 2002
Owner	(REGISTRANT) Luberski, Inc. CORPORATION CALIFORNIA 310 North Harbor Boulevard, Suite 100 Fullerton CALIFORNIA 92834
Attorney of Record	Darryl J. Horowitz, Esq.
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE



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Serial Number: 76269055 Assignment Information Trademark Document Retrieval

Registration Number: 2658449

Mark (words only): CALIFORNIA FINEST

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2008-06-21

Filing Date: 2001-06-07

Transformed into a National Application: No

Registration Date: 2002-12-10

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-06-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Luberski, Inc.

Address:

Luberski, Inc.
310 North Harbor Boulevard, Suite 100
Fullerton, CA 92834
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 029

Class Status: Active

EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT AND OTHER GOODS

Basis: 1(a)

First Use Date: 1985-00-00

First Use in Commerce Date: 1985-00-00

ADDITIONAL INFORMATION

Section 2(f)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-13 - Attorney Revoked And/Or Appointed

2010-08-13 - TEAS Revoke/ Appoint Attorney Received

2008-06-21 - Section 8 (6-year) accepted & Section 15 acknowledged

2008-04-30 - Assigned To Paralegal

2008-04-22 - Case File In TICRS

2008-04-11 - TEAS Section 8 & 15 Received

2002-12-10 - Registered - Principal Register

2002-09-17 - Published for opposition

2002-08-28 - Notice of publication

2002-07-06 - Amendment to Use approved

2002-05-30 - Approved For Pub - Principal Register

2002-05-24 - Amendment To Use Processing Complete

2002-05-03 - Use Amendment Filed

2002-05-03 - Communication received from applicant

2002-05-03 - PAPER RECEIVED

2001-11-19 - Non-final action mailed

2001-08-08 - Assigned To Examiner

2001-07-31 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Darryl J. Horowitz, Esq.

Correspondent

Darryl J. Horowitz, Esq.

Coleman & Horowitz, LLP

Suite 116

499 West. Shaw Ave.

Fresno CA 93704

Phone Number: 559-248-4820

Fax Number: 559-248-4830

Int. Cl.: 29

Prior U.S. Cl.: 46

Reg. No. 2,692,614

United States Patent and Trademark Office

Registered Mar. 4, 2003

TRADEMARK
PRINCIPAL REGISTER

CALIFORNIA RANCH FRESH

LUBERSKI, INC. (CALIFORNIA CORPORATION)
310 NORTH HARBOR BOULEVARD, SUITE 100
FULLERTON, CA 92834

FOR: EGGS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 11-1-1950; IN COMMERCE 11-1-1950.

OWNER OF U.S. REG. NO. 1,949,889.

SEC. 2(F) AS TO "CALIFORNIA" AND "FRESH" .

SER. NO. 76-355,301, FILED 1-4-2002.

CAROLYN GRAY, EXAMINING ATTORNEY

EXHIBIT "D"

Serial No.: 7 77627139 Case Name: Luberski, Inc., a
California corporation and doing business as Hidden
Villa Ranch v. California Farms, LLC, dba California
Farms, a California limited company; Offered by:
Luberski, Inc.



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Typed Drawing

Word Mark	CALIFORNIA RANCH FRESH
Goods and Services	IC 029. US 046. G & S: EGGS. FIRST USE: 19501101. FIRST USE IN COMMERCE: 19501101
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76355301
Filing Date	January 4, 2002
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	December 10, 2002
Registration Number	2692614
Registration Date	March 4, 2003
Owner	(REGISTRANT) Luberski, Inc. CORPORATION CALIFORNIA 310 North Harbor Boulevard, Suite 100 Fullerton CALIFORNIA 92834
Attorney of Record	Darryl J. Horowitz, Esq.
Prior Registrations	1949889
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)-IN PART
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE
Distinctiveness Limitation Statement	as to "CALIFORNIA" and "FRESH"

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Serial Number: 76355301 Assignment Information Trademark Document Retrieval

Registration Number: 2692614

Mark (words only): CALIFORNIA RANCH FRESH

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2008-08-14

Filing Date: 2002-01-04

Transformed into a National Application: No

Registration Date: 2003-03-04

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-08-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Luberski, Inc.

Address:

Luberski, Inc.
310 North Harbor Boulevard, Suite 100
Fullerton, CA 92834
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 029
Class Status: Active
EGGS
Basis: 1(a)
First Use Date: 1950-11-01
First Use in Commerce Date: 1950-11-01

ADDITIONAL INFORMATION

Section 2(f), in part, as to "CALIFORNIA" and "FRESH"

Prior Registration Number(s):
1949889

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-13 - Attorney Revoked And/Or Appointed
2010-08-13 - TEAS Revoke/Appoint Attorney Received
2008-08-14 - Section 8 (6-year) accepted & Section 15 acknowledged
2008-07-09 - Assigned To Paralegal
2008-06-30 - TEAS Section 8 & 15 Received
2008-06-27 - Case File In TICRS
2003-03-04 - Registered - Principal Register
2002-12-10 - Published for opposition
2002-11-20 - Notice of publication
2002-09-30 - Approved for Pub - Principal Register (Initial exam)
2002-06-24 - Communication received from applicant

2002-06-24 - PAPER RECEIVED

2002-05-07 - Non-final action mailed

2002-05-03 - Assigned To Examiner

2002-03-28 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Darryl J. Horowitz, Esq.

Correspondent

Darryl J. Horowitz, Esq.

Coleman & Horowitz, LLP

Suite 116

499 West. Shaw Ave.

Fresno CA 93704

Phone Number: 559-248-4820

Fax Number: 559-248-4830

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,720,725

Registered June 3, 2003

TRADEMARK
PRINCIPAL REGISTER

CALIFORNIA

LUBERSKI, INC. (CALIFORNIA CORPORATION)
310 NORTH HARBOR BOULEVARD, SUITE 100
FULLERTON, CA 92834

FOR: EGGS, CHEESE, MILK AND CREAMS,
BUTTER, WHEY POWDERS, SOUR CREAM AND
YOGURT, IN CLASS 29 (U.S. CL. 46).

FIRST USE 0-0-1950; IN COMMERCE 0-0-1950.

SEC. 2(F).

SER. NO. 76-357,550, FILED 1-9-2002.

CAROLYN GRAY, EXAMINING ATTORNEY

EXHIBIT "E"

Serial No.: 77627139; Case Name: Luberski, Inc., a
California corporation and doing business as Hidden
Villa Ranch v. California Farms, LLC, dba California
Farms, a California limited company; Offered by:
Luberski, Inc.



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Typed Drawing

Word Mark	CALIFORNIA
Goods and Services	IC 029. US 046. G & S: EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT. FIRST USE: 19500000. FIRST USE IN COMMERCE: 19500000
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76357550
Filing Date	January 9, 2002
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	March 11, 2003
Registration Number	2720725
Registration Date	June 3, 2003
Owner	(REGISTRANT) Luberski, Inc. CORPORATION CALIFORNIA Luberski, Inc. 301 North Harbor Boulevard, Suite 205 Fullerton CALIFORNIA 92834
Attorney of Record	Darryl J. Horowitz, Esq.
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE



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Serial Number: 76357550 Assignment Information Trademark Document Retrieval

Registration Number: 2720725

Mark (words only): CALIFORNIA

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2008-07-31

Filing Date: 2002-01-09

Transformed into a National Application: No

Registration Date: 2003-06-03

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-07-31

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Luberski, Inc.

Address:

Luberski, Inc.
Luberski, Inc. 301 North Harbor Boulevard, Suite 205
Fullerton, CA 92834
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 029

Class Status: Active

EGGS, CHEESE, MILK AND CREAMS, BUTTER, WHEY POWDERS, SOUR CREAM AND YOGURT

Basis: 1(a)

First Use Date: 1950-00-00

First Use in Commerce Date: 1950-00-00

ADDITIONAL INFORMATION

Section 2(f)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-13 - Attorney Revoked And/Or Appointed

2010-08-13 - TEAS Revoke/ Appoint Attorney Received

2008-07-31 - Section 8 (6-year) accepted & Section 15 acknowledged

2008-07-02 - Assigned To Paralegal

2008-07-01 - Case File In TICRS

2008-06-25 - TEAS Section 8 & 15 Received

2008-06-25 - Applicant/Correspondence Changes (Non-Responsive) Entered

2008-06-25 - TEAS Change Of Owner Address Received

2003-06-03 - Registered - Principal Register

2003-03-11 - Published for opposition

2003-02-19 - Notice of publication

2002-12-31 - Approved for Pub - Principal Register (Initial exam)

2002-11-07 - Communication received from applicant

2002-11-07 - PAPER RECEIVED

2002-05-07 - Non-final action mailed

2002-04-23 - Assigned To Examiner

2002-04-05 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Correspondent

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Coleman & Horowitz, LLP

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Phone Number: 559-248-4820

Fax Number: 559-248-4830

Gary Leibowitz, Esq.
Daniel J. Leibowitz, Esq.
Aaron Lipcics, Esq.
Erin Curry, Esq.
Susan P. Jensen, Esq.
Jacqueline Serran, Esq.

LEIBOWITZ LAW GROUP
ATTORNEYS AT LAW
4050 KATELLA AVE., SUITE 201
LOS ALAMITOS, CALIFORNIA 90720
SINCE 1980
PHONE (562) 430-6002 FAX (562) 430-8187

May 13, 2010

SENT VIA FIRST CLASS MAIL

California Farms, LLC
22252 SD Highway 13
Flandreau, SD 57028

Re: **CEASE AND DESIST USE OF PENDING MARK "California Farms California Proud"**
(TM # 77627130)

To Whom It May Concern:

Please take notice that your use of your pending mark, "California Farms California Proud" is potentially infringing upon a pre-existing registered trademark held by Luberski, Inc., a California corporation dba Hidden Villa Ranch ("Hidden Villa"). As such, please cease and desist from any and all future use of the pending mark "California Farms California Proud."

Hidden Villa is the registered owner of the mark "California" in the International Class 029 for Eggs, Cheese, Milk and Creams, Butter, Whey Powders, Sour Cream and Yogurt. (TM # 2720725). Hidden Villa's trademark was filed on January 9, 2002 and registered on June 3, 2003.

On December 5, 2008, California Farms, LLC filed an application for the mark "California Farms California Proud" in the International Class 29 to be used in relation to the goods and services of Eggs and Hen Eggs.

Because of the similarity of Hidden Villa's pre-existing registered mark and your pending mark and because of the relatedness of the goods described, there is little doubt that your pending mark potentially infringes upon Hidden Villa's mark.

Moreover, it is our contention that California Farms, LLC is already using its said pending mark in commerce. If our contention is true, California Farms is infringing upon Hidden Villa's pre-existing registered trademark.

EXHIBIT "F"

Serial No.: 77627139; Case Name: Luberski, Inc., a California corporation and doing business as Hidden Villa Ranch v. California Farms, LLC, dba California Farms, a California limited company; Offered by: Luberski, Inc.

Given your potentially infringing use of the aforementioned pending mark, please discontinue use of the said mark immediately. If you fail to discontinue use of pending mark immediately, Hidden Villa will not hesitate to utilize all legal remedies available to it.

Yours truly,

A handwritten signature in black ink, appearing to read "Daniel J. Leibowitz", with a stylized flourish at the end.

Daniel J. Leibowitz, Esq.
LEIBOWITZ LAW GROUP
Attorneys for Luberski, Inc. dba Hidden Villa Ranch

COLEMAN & HOROWITT, LLP

ATTORNEYS AT LAW

DARRYL J. HOROWITT

499 WEST SHAW, SUITE 116
FRESNO, CALIFORNIA 93704

WRITER'S E-MAIL
DHOROWITT@CH-LAW.COM

TELEPHONE: (559) 248-4820
FACSIMILE: (559) 248-4830
WEB: WWW.CH-LAW.COM

June 30, 2010

Via Telecopier

J. Steven Rice, Esq.
Perkins Williams Rice
425 West Capitol, Suite 3000
Little Rock, AR 72201

Re: **Cease and Desist Use of Pending Mark**

Trademarks: "California Natural California Proud," "California Cage Free California Proud," "Daily Egg Ranches California Proud," and "California Farms California Proud"
App. Serial No.: 77627139, 77627122, 77643540, and 77627130
Our Client: Luberski, Inc., dba Hidden Villa Ranch

Dear Mr. Rice:

We are outside counsel for Luberski, Inc. dba Hidden Villa Ranch ("Hidden Villa"). We are writing as a follow up to the letter dated May 13, 2010, from Dan Leibowitz, in-house counsel for Luberski, Inc. dba Hidden Villa Ranch ("Hidden Villa"). Our client forwarded your letter of May 26, 2010 to our office. This letter will serve as our response.

Hidden Villa is the registered owner of the mark "California" in the International Class 029 for "eggs, cheese, milk and creams, butter whey powders, sour cream, and yogurt." (Registration No. 2,720,725.). In addition, Hidden Villa is the registered owner of other marks using the mark "California" including "California Sunshine," "California Ranch" and "California Ranch Fresh." (Registration Nos. 1949889, 2642676, and 2692614, respectively.)

California Farms, LLC filed applications for the following marks: CALIFORNIA NATURAL CALIFORNIA PROUD, CALIFORNIA CAGE FREE CALIFORNIA PROUD, DAILY EGG RANCHES CALIFORNIA PROUD, and CALIFORNIA FARMS CALIFORNIA PROUD, which are in the same International Class of Goods 029, in relation to the goods and services, "eggs and hen eggs." Your client's pending marks were published for opposition on June 1, 2010.

EXHIBIT "G"

Serial No.:77627139; Case Name: Luberski, Inc., a California corporation and doing business as Hidden Villa Ranch v. California Farms, LLC, dba California Farms, a California limited company; Offered by: Luberski, Inc.

J. Steven Rice, Esq.

June 30, 2010

Page 2

Due to the similarity of our client's mark and your client's pending marks, and the similarity of the goods in which the marks are used, your client's pending marks infringe on our client's mark "California." As a result, Mr. Leibowitz's letter of May 13, 2010 requested that your client cease and desist from the proposed marks based on our client's prior use and existing trademarks. Unfortunately, despite our initial request, it appears your client has failed to heed our client's request.

Before our client goes through the expense of formally opposing your client's applications and seeking injunctive relief and damages for the use of our client's mark, we are writing to demand that your client cease and desist use of your client's marks CALIFORNIA NATURAL CALIFORNIA PROUD, CALIFORNIA CAGE FREE CALIFORNIA PROUD, DAILY EGG RANCHES CALIFORNIA PROUD, and CALIFORNIA FARMS CALIFORNIA PROUD. Please confirm that your client will do so within ten (10) days of the date of this letter. If you fail to do so within that time, we will assume that your client is not willing to cease the use of the proposed mark and we will take legal action to enforce our client's rights.

Our client obtained a 30-day extension to file its oppositions to the publications with the United States Patent and Trademark Office before the Trademark Trial and Appeal Board. Our client, nevertheless, needs a response within the time set forth above so that it may resolve this matter timely. As you are well aware, trademark disputes are costly. As such, we invite you, on behalf of your client, to discuss a possible resolution to avoid incurring further costs for both parties and to avoid costly litigation.

Thank you in advance for your prompt attention to this matter. Of course, if you have any questions, please call.

Very truly yours,

COLEMAN & HOROWITT, LLP



DARRYL J. HOROWITT

DJH\rw

cc: Client
Helen E. Omapas

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COLEMAN & HOROWITT, LLP
ATTORNEYS AT LAW

499 WEST SHAW, SUITE 115
FRESNO, CALIFORNIA 93704
TELEPHONE: (559) 248-4820
FACSIMILE: (559) 248-4830
WEB: WWW.CH-LAW.COM

FACSIMILE COVER SHEET

DATE: June 30, 2010 FILE NO.: 169.83

TO: J. Steven Rice, Esq.

COMPANY: Perkins Williams Rice

FAX: (501) 975-0150

PHONE: *

FROM: Darryl J. Horowitz

OPERATOR: Renee Wolf

RE: Our client, Luberski, Inc.

DOCUMENT: Cease and Desist Letter dated June 30, 2010

WE ARE TRANSMITTING A TOTAL OF 3 PAGE(S) INCLUDING THIS COVER LETTER. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL THIS OFFICE AT (559) 248-4820 AS SOON AS POSSIBLE.

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