

ESTTA Tracking number: **ESTTA486265**

Filing date: **07/30/2012**

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	Omaha Steaks International, Inc.
Granted to Date of previous extension	07/29/2012
Address	11030 O Street Omaha, NE 68137 UNITED STATES

Attorney information	Nancy T. Morris Stinson Morrison Hecker LLP 1201 Walnut Street, Suite 2900 Kansas City, MO 64106-2150 UNITED STATES nmorris@stinson.com, trademark@stinson.com Phone:402-930-1759
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Applicant Information

Application No	85349152	Publication date	01/31/2012
Opposition Filing Date	07/30/2012	Opposition Period Ends	07/29/2012
Applicant	Greater Omaha Packing Co., Inc. 3001 "L" Street P.O. Box 7566 Omaha, NE 68107 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. All goods and services in the class are opposed, namely: Beef; Meat; Pork; Poultry; Processed lamb; Veal
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Secondary Meaning Trademark Act Section 2(f)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2840193	Application Date	01/28/2003
Registration Date	05/11/2004	Foreign Priority Date	NONE
Word Mark	PREMIUM HEARTLAND QUALITY OMAHA STEAKS SINCE 1917		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 029. First use: First Use: 1996/01/01 First Use In Commerce: 1996/01/01 Meat, Hot dogs, Hamburger patties, Corned beef, Ham, Liver, Bacon, Pork, Processed lamb, Turkey, Roast beef, Soups, Chicken, Fish, Processed Potatoes, Frozen vegetables, fish dip, and frozen meals consisting primarily of meat, fish, poultry or vegetables</p> <p>Class 030. First use: First Use: 1996/01/01 First Use In Commerce: 1996/01/01 Bakery desserts, Frozen meals consisting primarily of pasta or rice, Steak seasoning, Bread, Butter sauce, Hollandaise sauce, Bearnaise sauce, Peppercorn sauce, Bordelaise sauce, Gravy</p> <p>Class 035. First use: First Use: 1996/01/01 First Use In Commerce: 1996/01/01 Electronic retailing services via computer featuring food and food related items; Mail order catalog services featuring food and food related items; Telephone shop-at-home services in the field of food and food related items</p>

U.S. Registration No.	2893159	Application Date	01/28/2003
Registration Date	10/12/2004	Foreign Priority Date	NONE

Word Mark	PREMIUM HEARTLAND QUALITY OMAHA STEAKS STORES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/12/19 First Use In Commerce: 2002/12/19 retail food store services		

U.S. Registration No.	3857498	Application Date	11/13/2008
Registration Date	10/05/2010	Foreign Priority Date	NONE
Word Mark	HEARTLAND QUALITY OMAHA STEAKS SINCE 1917		

Design Mark	
Description of Mark	<p>The mark consists of the words "HEARTLAND QUALITY" appearing within a curved rectangular banner, the words "OMAHA STEAKS" in appearing thereunder within a rectangular box having a border and the words "SINCE 1917" appearing thereunder within a semi-circular design with a line appearing within and at the bottom of the semi-circle. Two bands extend horizontally from either side of the wording, each having a two borders.</p>
Goods/Services	<p>Class 035. First use: First Use: 2009/04/30 First Use In Commerce: 2009/04/30 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items</p>

U.S. Registration No.	3768689	Application Date	11/13/2008
Registration Date	03/30/2010	Foreign Priority Date	NONE
Word Mark	HEARTLAND QUALITY OMAHA STEAKS SINCE 1917		
Design Mark			
Description of Mark	<p>The mark consists of the words "HEARTLAND QUALITY" appearing within a curved rectangular banner, the words "OMAHA STEAKS" appearing thereunder within a rectangular box having a border and the words "SINCE 1917" appearing thereunder within a semi-circular design with a line appearing within and at the bottom of the semi-circle. Two bands extend vertically from either side of the wording, each having two borders.</p>		
Goods/Services	<p>Class 029. First use: First Use: 2009/04/30 First Use In Commerce: 2009/04/30 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables</p> <p>Class 030. First use: First Use: 2009/04/30 First Use In Commerce: 2009/04/30 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts</p>		

	Class 035. First use: First Use: 2009/04/15 First Use In Commerce: 2009/04/15 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items
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U.S. Registration No.	3768690	Application Date	11/13/2008
Registration Date	03/30/2010	Foreign Priority Date	NONE

Word Mark	HEARTLAND QUALITY OMAHA STEAKS SINCE 1917
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Description of Mark	The mark consists of the words "HEARTLAND QUALITY" appearing within a curved rectangular banner, the words "OMAHA STEAKS" appearing thereunder within a rectangular box having a border and the words "SINCE 1917" appearing thereunder within a semi-circular design.
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Goods/Services	<p>Class 029. First use: First Use: 2009/03/31 First Use In Commerce: 2009/03/31 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables</p> <p>Class 030. First use: First Use: 2009/03/31 First Use In Commerce: 2009/03/31 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts</p> <p>Class 035. First use: First Use: 2009/03/03 First Use In Commerce: 2009/03/03 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items</p>
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U.S. Registration No.	3768691	Application Date	11/13/2008
Registration Date	03/30/2010	Foreign Priority Date	NONE

Word Mark	HEARTLAND QUALITY OMAHA STEAKS SINCE 1917
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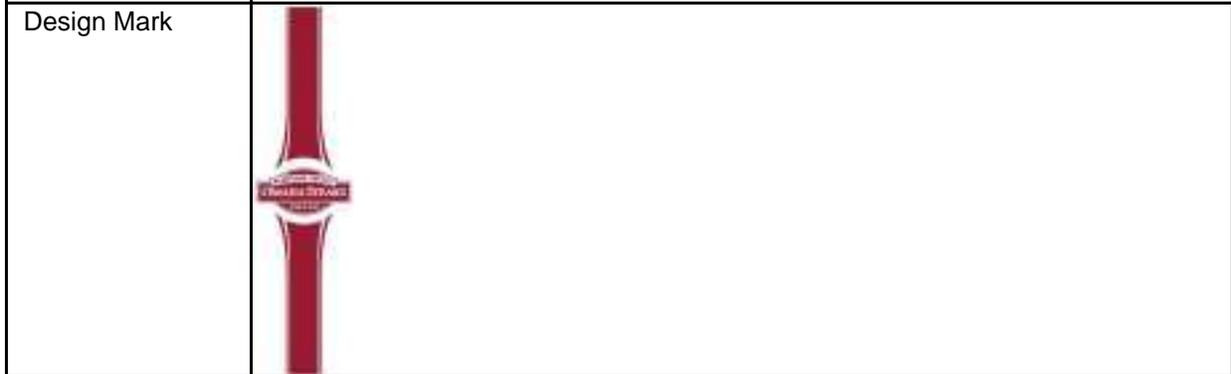
Description of Mark	<p>The mark consists of the words "HEARTLAND QUALITY" in burgundy appearing within a white curved rectangular banner, the words "OMAHA STEAKS" in white appearing thereunder within a burgundy rectangular box having a white and burgundy border and the words "SINCE 1917" in white appearing thereunder within a burgundy semi-circular design with a white line appearing within and at the bottom of the semi-circle.</p>
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Goods/Services	<p>Class 029. First use: First Use: 2009/03/31 First Use In Commerce: 2009/03/31 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables</p> <p>Class 030. First use: First Use: 2009/03/31 First Use In Commerce: 2009/03/31 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts</p> <p>Class 035. First use: First Use: 2009/03/03 First Use In Commerce: 2009/03/03 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items</p>
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U.S. Registration No.	3768693	Application Date	11/13/2008
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Registration Date	03/30/2010	Foreign Priority Date	NONE
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Word Mark	HEARTLAND QUALITY OMAHA STEAKS SINCE 1917
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Description of Mark	<p>The mark consists of the words "HEARTLAND QUALITY" in burgundy appearing within a white curved rectangular banner, the words "OMAHA STEAKS" in white appearing thereunder within a burgundy rectangular box</p>
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	having a white and burgundy border and the words "SINCE 1917" in white appearing thereunder within a burgundy semi-circular design with a white line appearing within and at the bottom of the semi-circle. Two burgundy bands extend vertically from either side of the wording, each having a white border and burgundy border.
Goods/Services	<p>Class 029. First use: First Use: 2009/04/30 First Use In Commerce: 2009/04/30 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables</p> <p>Class 030. First use: First Use: 2009/04/30 First Use In Commerce: 2009/04/30 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts</p> <p>Class 035. First use: First Use: 2009/04/15 First Use In Commerce: 2009/04/15 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items</p>

U.S. Registration No.	2414603	Application Date	02/08/1999
Registration Date	12/19/2000	Foreign Priority Date	NONE
Word Mark	OMAHASTEAKS.COM		
Design Mark	OMAHASTEAKS.COM		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/05/25 First Use In Commerce: 2000/05/25 providing information in the field of food and food preparation by means of a global computer network		

U.S. Registration No.	1458802	Application Date	08/25/1986
Registration Date	09/22/1987	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 042. First use: First Use: 1968/00/00 First Use In Commerce: 1976/06/00 RETAIL MAIL-ORDER AND RETAIL FOOD STORE SERVICES IN THE FIELD OF GOURMET FOOD PRODUCTS, KITCHEN APPAREL AND KITCHEN UTENSILS		
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U.S. Registration No.	1515602	Application Date	11/27/1987
Registration Date	12/06/1988	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1968/00/00 First Use In Commerce: 1976/06/00 MEAT SOLD TO HOTELS, RESTAURANTS AND INSTITUTIONS		

U.S. Registration No.	1555215	Application Date	02/18/1988
Registration Date	09/05/1989	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS FOODSERVICE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1987/12/17 First Use In Commerce: 1988/01/15 WHOLESALE DISTRIBUTORSHIP SERVICES IN THE FIELD OF FOOD		

U.S. Registration No.	1674686	Application Date	04/19/1991
Registration Date	02/04/1992	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1968/00/00 First Use In Commerce: 1976/06/00 retail food store services		

U.S. Registration No.	3774260	Application Date	05/07/2009
Registration Date	04/13/2010	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS		

Design Mark	<h1>OMAHA STEAKS</h1>
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Description of Mark	NONE
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Goods/Services	<p>Class 029. First use: First Use: 1968/12/31 First Use In Commerce: 1976/06/30 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables</p> <p>Class 030. First use: First Use: 1996/09/01 First Use In Commerce: 1996/09/01 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts</p> <p>Class 035. First use: First Use: 1968/12/31 First Use In Commerce: 1976/06/30 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items</p>
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U.S. Registration No.	2002499	Application Date	05/04/1995
Registration Date	09/24/1996	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS ANGUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1995/09/06 First Use In Commerce: 1995/09/06 fresh and frozen boxed steaks, and fresh and frozen cuts of meat		

U.S. Registration No.	3799411	Application Date	10/21/2009
Registration Date	06/08/2010	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS PRIVATE RESERVE		

Design Mark	
Description of Mark	The mark consists of the wording "OMAHA STEAKS" in white appearing within a rectangular burgundy box design, having three borders, namely, a white inner border, a black middle border and a white outer border. The wording "PRIVATE RESERVE" appears below the rectangular burgundy box design and appears within a fanciful taupe colored banner design. The banner has two borders, the innermost border appearing in white and the outermost border appearing in burgundy. A fanciful white line drawing appears below the wording "PRIVATE RESERVE" and within the banner design.
Goods/Services	Class 030. First use: First Use: 2009/04/01 First Use In Commerce: 2009/04/01 Seasonings Class 035. First use: First Use: 2008/10/01 First Use In Commerce: 2008/10/01 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items; telephone shop-at-home services in the field of food and food related items

U.S. Registration No.	4172329	Application Date	10/15/2010
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	OMAHA FRESH ANGUS BY OMAHA STEAKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2012/04/02 First Use In Commerce: 2012/04/02 Angus meat		

U.S. Registration No.	4172330	Application Date	10/15/2010
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	OMAHA FRESH BY OMAHA STEAKS		

Design Mark	OMAHA FRESH BY OMAHA STEAKS
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2012/04/02 First Use In Commerce: 2012/04/02 Meat

U.S. Registration No.	3758608	Application Date	09/10/2008
Registration Date	03/09/2010	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS PRIVATE RESERVE		
Design Mark			
Description of Mark	<p>The mark consists of the wording "OMAHA STEAKS" in white appearing within a rectangular burgundy box design, having three borders, namely, a white inner border, a black middle border and a white outer border. The wording "PRIVATE RESERVE" appears below the rectangular burgundy box design and appears within a fanciful taupe colored banner design. The banner has two borders, the innermost border appearing in white and the outermost border appearing in burgundy. A fanciful white line drawing appears below the wording "PRIVATE RESERVE" and within the banner design.</p>		
Goods/Services	Class 029. First use: First Use: 2008/09/29 First Use In Commerce: 2008/09/29 Meat		

U.S. Application No.	85153474	Application Date	10/15/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OMAHA FRESH BY OMAHA STEAKS		

Design Mark	<p style="text-align: center;">OMAHA FRESH BY OMAHA STEAKS</p>
Description of Mark	NONE
Goods/Services	Class 035. First use: Mail order catalog services featuring food and food related items; On-line retail store services featuring food and food related items; Retail stores featuring food and food related items; Wholesale food distributorship services

U.S. Application No.	85153488	Application Date	10/15/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	OMAHA FRESH ANGUS BY OMAHA STEAKS		
Design Mark	<p style="text-align: center;">OMAHA FRESH ANGUS BY OMAHA STEAKS</p>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: Mail order catalog services featuring food and food related items; On-line retail store services featuring food and food related items; Retail stores featuring food and food related items; Wholesale food distributorship services		

U.S. Application No.	85319059	Application Date	05/12/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS		

Design Mark	<h1>OMAHA STEAKS</h1>
Description of Mark	NONE
Goods/Services	Class 035. First use: Food kiosk services; mobile food kiosk services Class 043. First use: Catering for the provision of food and beverages; Catering of food and drinks; Food preparation services; Mobile cafe services for providing food and drink; Preparation of food and beverages; Providing of food and drink; Serving of food and drink/beverages

U.S. Application No.	85319082	Application Date	05/12/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HEARTLAND QUALITY OMAHA STEAKS SINCE 1917
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Design Mark	
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Description of Mark	The mark consists of the words "HEARTLAND QUALITY" appearing within a curved rectangular banner, the words "OMAHA STEAKS" appearing thereunder within a rectangular box having a border and the words "SINCE 1917" appearing thereunder within a semi-circular design.
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Goods/Services	Class 035. First use: Food kiosk services; mobile food kiosk services Class 043. First use: Catering for the provision of food and beverages; Catering of food and drinks; Food preparation services; Mobile cafe services for providing food and drink; Preparation of food and beverages; Providing of food and drink; Serving of food and drink/beverages
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U.S. Application No.	85361435	Application Date	07/01/2011
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	OMAHA STEAKS PRIVATE RESERVE		
Design Mark			
Description of Mark	<p>The mark consists of the wording "OMAHA STEAKS" in white appearing within a rectangular burgundy box design, having three borders, namely, a white inner border, a black middle border and a white outer border. The wording "PRIVATE RESERVE" in black appears below the rectangular burgundy box design and appears within a fanciful taupe colored banner design. The banner has two borders, the innermost border appearing in white and the outermost border appearing in burgundy. A fanciful white line drawing appears below the wording "PRIVATE RESERVE" and within the banner design.</p>		
Goods/Services	Class 029. First use: baked potatoes		

U.S. Application No.	85383653	Application Date	07/28/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OMAHA STEAKS PRIVATE RESERVE		
Design Mark			
Description of Mark	<p>The mark consists of the wording "OMAHA STEAKS" in white appearing within a rectangular burgundy box design, having three borders, namely, a white inner border, a black middle border and a white outer border. The wording "PRIVATE RESERVE" in black appears below the rectangular burgundy box design and appears within a fanciful taupe colored banner design. The banner has two borders, the innermost border appearing in white and the outermost border appearing in burgundy. A fanciful white line drawing appears below the wording "PRIVATE RESERVE" and within the banner design.</p>		
Goods/Services	<p>Class 030. First use: Bakery desserts; Barbecue sauce; Bread; Breakfast burritos; Cakes; Cheesecake; Cookie dough; Cookies; Cream puffs; Flavored vinegar; Frozen foods, namely, grain and bread based appetizers, hors d'oeuvres and canapés; Frozen meals consisting primarily of pasta or rice; Gravy;</p>		

	Horseradish; Hot dog sandwiches; Ketchup; Macaroni salads; Mustard; Packaged meals consisting primarily of pasta or rice; Pasta salads; Prepared meals consisting primarily of pasta or rice; Rice cakes; Salad dressings; Sauces; Spring rolls; Tarts
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U.S. Application No.	85383663	Application Date	07/28/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	OMAHA STEAKS PRIVATE RESERVE
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Description of Mark	The mark consists of the wording "OMAHA STEAKS" in white appearing within a rectangular burgundy box design, having three borders, namely, a white inner border, a black middle border and a white outer border. The wording "PRIVATE RESERVE" in black appears below the rectangular burgundy box design and appears within a fanciful taupe colored banner design. The banner has two borders, the innermost border appearing in white and the outermost border appearing in burgundy. A fanciful white line drawing appears below the wording "PRIVATE RESERVE" and within the banner design.
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Goods/Services	Class 029. First use: Bacon; Beef; Beef jerky; Beef stick snack foods; Bratwurst; Cheese; Chicken; Corned beef; Crab cakes; Crabs; Dips; Fish fillets; Fish; Frankfurters; Frozen appetizers consisting primarily of chicken or seafood; Frozen entrees consisting primarily of meat, fish, poultry or vegetables; Frozen meals consisting primarily of meat, fish, poultry or vegetables; Frozen pre-packaged entrees consisting primarily of seafood; Frozen vegetables; Ham; Hash brown potatoes; Uncooked hamburger patties; Hot dogs; Liver; Mashed potatoes; Meatballs; Omelets; Packaged meals consisting primarily of meat, fish, poultry or vegetables; Pork; Potato fries; Potato skins; Poultry; Pre-cut vegetable salad; Prepared foods, namely, side dishes and casseroles mainly consisting of vegetables, potatoes, beans or fruit; Prepared meals consisting primarily of meat, fish, poultry or vegetables; Prepared nuts; Processed lamb; Processed potatoes; Roast beef; Salads except macaroni, rice and pasta salads; Salmon; Sausages; Seafood; Shellfish; Soups; Turkey; Veal
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U.S. Application No.	85383667	Application Date	07/28/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	OMAHA STEAKS PRIVATE RESERVE
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Design Mark	
Description of Mark	<p>The mark consists of the wording "OMAHA STEAKS" in white appearing within a rectangular burgundy box design, having three borders, namely, a white inner border, a black middle border and a white outer border. The wording "PRIVATE RESERVE" in black appears below the rectangular burgundy box design and appears within a fanciful taupe colored banner design. The banner has two borders, the innermost border appearing in white and the outermost border appearing in burgundy. A fanciful white line drawing appears below the wording "PRIVATE RESERVE" and within the banner design.</p>
Goods/Services	<p>Class 035. First use: Customer loyalty services and customer club services, for commercial, promotional and advertising purposes; Administration of an incentive award program enabling participants to obtain discounts and complimentary awards on goods and services through membership; Mobile retail store services featuring food and food related items; Providing incentive award programs for customers by offering discounts on goods for the purpose of promoting and awarding loyalty; Retail store services featuring food and food related items</p>

Related Proceedings	None
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Attachments	<p>78207792#TMSN.gif (1 page)(bytes) 78207757#TMSN.jpeg (1 page)(bytes) 77613760#TMSN.jpeg (1 page)(bytes) 77613754#TMSN.jpeg (1 page)(bytes) 77613768#TMSN.jpeg (1 page)(bytes) 77613775#TMSN.jpeg (1 page)(bytes) 77613789#TMSN.jpeg (1 page)(bytes) 75634292#TMSN.gif (1 page)(bytes) 77731765#TMSN.jpeg (1 page)(bytes) 77853788#TMSN.jpeg (1 page)(bytes) 85153479#TMSN.jpeg (1 page)(bytes) 85153496#TMSN.jpeg (1 page)(bytes) 77566409#TMSN.jpeg (1 page)(bytes) 85153474#TMSN.jpeg (1 page)(bytes) 85153488#TMSN.jpeg (1 page)(bytes) 85319059#TMSN.jpeg (1 page)(bytes) 85319082#TMSN.jpeg (1 page)(bytes) 85361435#TMSN.jpeg (1 page)(bytes) 85383653#TMSN.jpeg (1 page)(bytes) 85383663#TMSN.jpeg (1 page)(bytes) 85383667#TMSN.jpeg (1 page)(bytes) Notice of Opposition Omaha Steaks International Inc.pdf (16 pages)(139724 bytes)</p>
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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	/nancy t morris/
Name	Nancy T. Morris
Date	07/30/2012

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

In the matter of Trademark Application Serial No.: 85/349,152
Mark: OMAHA MEAT TRADITIONS PRESENTED BY TREX 1956
Filing Date: June 17, 2011
Published: January 31, 2012

Omaha Steaks International, Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No.: _____
)	
Greater Omaha Packing Co., Inc.)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Omaha Steaks International, Inc. ("Opposer"), a Nebraska corporation located at 11030 'O' Street, Omaha, Nebraska 68137 having been granted an extension of time until July 29, 2012, hereby brings this Opposition against the registration of the mark OMAHA MEAT TRADITIONS PRESENTED BY TREX 1956 and design (the "Opposed Mark") claimed in Application Serial No. 85/349,152 (the "Application"). Opposer believes it will be damaged by the registration of the Application and therefore opposes the same.

As grounds of opposition, Opposer alleges as follows:

1. Opposer has been selling and/or offering various food products including meat and related goods and services under the mark OMAHA STEAKS in U.S. commerce since 1952. Opposer is a highly successful company and the OMAHA STEAKS mark is famous in

connection with Opposer's products and services and a source of considerable goodwill for Opposer and the integrity of the OMAHA STEAKS brand is of utmost importance to Opposer.

2. Opposer owns several U.S. trademark registrations and allowed applications for marks that incorporate the words OMAHA STEAKS in standard characters alone or in combination with other words and/or design elements. See Schedule of Marks attached as Exhibit A.

3. Opposer's Registration Nos. 1458802, 1515602, 1555215, 1674686, 2002499, 2840193, 2893159, 3758608, 3768689, 3768690, 3768693, 3857500, 4172329, and 4172330 are incontestable pursuant to 15 U.S.C. §1065, which provides conclusive evidence of Opposer's ownership of the marks therein, of the validity of the marks therein, and of Opposer's exclusive right to use the marks in commerce in connection with the goods and/or services identified in the registrations pursuant to 15 U.S.C. §1115(b).

4. Opposer's Registration Nos. 1005036, 1005037, 1007997, 1458802, 1515602, 1555215, 1674686, 2002499, 2414603, 2840193, 2893159, 3768689, 3768691, 3768693, 3774260, 3799411, 3857498, 4172329, and 4172330 are 2(f) registrations based on acquired distinctiveness of the words OMAHA, OMAHA STEAKS or OMAHA STEAKS ANGUS.

5. Opposer began actual and constructive use of its OMAHA STEAKS marks in commerce more than fifty years prior to Applicant's filing of its intent-to-use application on June 17, 2011. Opposer has been continuously using its registered marks that incorporate the words OMAHA STEAKS in connection with food products, including meat, and related goods and services since at least as early as December 31, 1968.

6. Furthermore, Opposer has prior common law rights in OMAHA STEAKS as a trademark and has continuously used the mark OMAHA STEAKS in nationwide advertising of

food, including meat and related goods as well as promotional and collateral goods dating back to at least as early as 1952.

7. Opposer is owner of all right, title and interest in and to the mark OMAHA STEAKS and other marks containing the words OMAHA STEAKS as heretofore alleged (referred to hereinafter, collectively, as the "OMAHA STEAKS Marks"), in connection with its goods and services.

8. Opposer has invested substantial sums of money to widely and extensively advertise, promote and familiarize the public with the goods and services its sells and offers under the OMAHA STEAKS Marks.

9. As a result of this investment and the superior quality of its goods and services, Opposer's OMAHA STEAKS Marks have acquired a highly favorable reputation among members of the purchasing public and have become valuable symbols of Opposer's goodwill.

10. By virtue of the high degree of acquired distinctiveness of the OMAHA STEAKS Marks, the long duration and extensive use of the OMAHA STEAKS Marks in connection with the goods and services with which the OMAHA STEAKS Marks have been used, the long duration and extensive advertising and promotion of the OMAHA STEAKS Marks, the 50-state trading area in which the OMAHA STEAKS Marks have been used, and the high degree of recognition of the OMAHA STEAKS Marks, the OMAHA STEAKS Marks have become well-known and famous by the general consuming public of the United States, as well as foreign consumers, as distinctive indicators of the origin of Opposer's goods and services, and were famous before the date of filing of the Application.

11. Notwithstanding Opposer's prior rights in the OMAHA STEAKS Marks, on June 17, 2011, Applicant filed the Application stating the intention to use the mark "OMAHA MEAT

TRADITIONS PRESENTED BY TREX 1956" and Design in connection with Beef; Meat; Pork; Poultry; Processed lamb; Veal in Class 29.

12. Applicant has not amended the Application to claim a date of first use.

13. On information and belief, Applicant knew of Opposer's longstanding prior rights in the OMAHA STEAKS Marks when Applicant filed the Application.

14. Opposer's Registration Nos. 1458802, 1515602, 1555215, 1674686, 2002499, 2414603, 2840193, 2893159, 3758608, 3768689, 3768690, 3768691, 3768693, 3774260, 3799411, and 3857498 for OMAHA STEAKS Marks issued prior to the filing date of the Application and prior to any use by Applicant of the Opposed Mark in the United States.

15. The Opposed Mark  is confusingly similar in sight, sound and meaning to the mark OMAHA STEAKS Marks, for example Opposer's Reg. No. 2,840,193



16. Further, Applicant's goods are similar to, or are identical to, Opposer's goods and services.

17. Likelihood of confusion in this case is increased by the fame and high degree of recognition of Opposer's OMAHA STEAKS Marks as distinctive indicators of the origin of Opposer's goods and services.

18. Similarly, Applicant's goods and Opposer's goods and services are targeted, offered and sold to the same class of prospective consumers, namely members of the general public who purchase meat, beef, pork, poultry, processed lamb or veal and associated services.

19. Registration and use of the Opposed Mark is likely to cause confusion or mistake in the minds of the public and lead the public and prospective purchasers into believing that Applicant's goods are those of Opposer, or are endorsed or sponsored by, or otherwise affiliated or connected to Opposer, or that Opposer's goods and services are associated with Applicant, all to the damage and injury of Opposer.

20. Registration of the Opposed Mark is likely to cause dilution of Opposer's OMAHA STEAKS Marks, to the injury of Opposer, by lessening the capacity of the OMAHA STEAKS Marks to identify and distinguish Opposer's goods and services, or otherwise dilute or tarnish Opposer's famous OMAHA STEAKS Marks.

21. By reason of the foregoing, Opposer will be damaged in the registration of the Opposed Mark and registration should be refused.

WHEREFORE, Opposer Omaha Steaks International, Inc. respectfully requests that registration of Applicant's mark be rejected and for such other relief as the Board deems just and proper.

A copy of this Notice has been mailed to the Applicant at their address of record.

Please charge deposit account No. 194409 in the amount of \$300 to cover the filing fee of the Notice of Opposition against Applicant. Please change any additional fees to deposit account No. 194409, as necessary.

Respectfully submitted,

Dated: July 30, 2012

By: Nancy T. Morris
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Attorney for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Opposition was served this 30th day of July, 2012, by depositing copies thereof in first class U.S. mail, postage prepaid, addressed to the following:

Applicant:
Greater Omaha Packing Co., Inc.
3001 "L" Street
P.O. Box 7566
Omaha, NE 68107

and

Correspondence Address of Record:
TREX Corporation
851 Burlway Rd.
Burlingame CA 94010



Nancy T. Morris, Attorney for Opposer

EXHIBIT A

SCHEDULE OF MARKS

Serial Number	Reg. Number	Reg. or Allowance Date	Mark	Goods/Services	
73616747	1458802	1987-09-22	OMAHA STEAKS	International Class: 042 retail mail-order and retail food store services in the field of gourmet food products, kitchen apparel and kitchen utensils	First Use Date: 1968-00-00 First Use in Commerce Date: 1976-06-00
73697700	1515602	1988-12-06	OMAHA STEAKS	International Class: 029 meat sold to hotels, restaurants and institutions	First Use Date: 1968-00-00 First Use in Commerce Date: 1976-06-00
73711908	1555215	1989-09-05	OMAHA STEAKS FOODSERVICE	International Class: 042 wholesale distributorship services in the field of food	First Use Date: 1987-12-17 First Use in Commerce Date: 1988-01-15
74158733	1674686	1992-02-04	OMAHA STEAKS	International Class: 042 retail food store services	First Use Date: 1968-00-00 First Use in Commerce Date: 1976-06-00
74669660	2002499	1996-09-24	OMAHA STEAKS ANGUS	International Class: 029 fresh and frozen boxed steaks, and fresh and frozen cuts of meat	First Use Date: 1995-09-06 First Use in Commerce Date: 1995-09-06
75634292	2414603	2000-12-19	OMAHASTEAKS.COM	International Class: 042 providing information in the field of food and food preparation by means of a global computer network	First Use Date: 2000-05-25 First Use in Commerce Date: 2000-05-25
78207792	2840193	2004-05-11	PREMIUM HEARTLAND QUALITY OMAHA STEAKS SINCE 1917 	International Class: 029 Meat, Hot dogs, Hamburger patties, Corned beef, Ham, Liver, Bacon, Pork, Processed lamb, Turkey, Roast beef, Soups, Chicken, Fish, Processed Potatoes, Frozen vegetables, fish dip, and frozen meals consisting primarily of meat, fish, poultry or vegetables. International Class: 030 Bakery desserts, Frozen meals	First Use Date: 1996-01-01 First Use in Commerce Date: 1996-01-01

				<p>consisting primarily of pasta or rice, Steak seasoning, Bread, Butter sauce, Hollandaise sauce, Bearnaise sauce, Peppercorn sauce, Bordelaise sauce, Gravy.</p> <p>International Class: 035 Electronic retailing services via computer featuring food and food related items; Mail order catalog services featuring food and food related items; Telephone shop-at-home services in the field of food and food related items.</p>	
78207757	2893159	2004-10-12	<p>PREMIUM HEARTLAND QUALITY OMAHA STEAKS STORES</p> 	<p>International Class: 035 retail food store services</p>	<p>First Use Date: 2002-12-19</p> <p>First Use in Commerce Date: 2002-12-19</p>
77566409	3758608	2010-03-09	<p>OMAHA STEAKS PRIVATE RESERVE</p> 	<p>International Class: 029 Meat</p>	<p>First Use Date: 2008-09-29</p> <p>First Use in Commerce Date: 2008-09-29</p>
77613754	3768689	2010-03-30	<p>HEARTLAND QUALITY OMAHA STEAKS SINCE 1917</p> 	<p>International Class: 029 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables.</p> <p>International Class: 030 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts.</p>	<p>First Use Date: 2009-04-30 (Class 29 and 30)</p> <p>2009-04-15 (Class 35)</p> <p>First Use in Commerce Date: 2009-04-30 (Class 29 and 30)</p> <p>2009-04-15 (Class 35)</p>

				<p>International Class: 035 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items</p>	
77613768	3768690	2010-03-30	<p>HEARTLAND QUALITY OMAHA STEAKS SINCE 1917</p> 	<p>International Class: 029 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables.</p> <p>International Class: 030 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts</p> <p>International Class: 035 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items</p>	<p>First Use Date: 2009-03-31 (Class 29 and 30)</p> <p>2009-03-03 (Class 35)</p> <p>First Use in Commerce Date: 2009-03-31 (Class 29 and 30)</p> <p>2009-03-03 (Class 35)</p>
77613775	3768691	2010-03-30	<p>HEARTLAND QUALITY OMAHA STEAKS SINCE 1917</p> 	<p>International Class: 029 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups;</p>	<p>First Use Date: 2009-03-31 (Class 29 and 30)</p> <p>2009-03-03 (Class 35)</p> <p>First Use in Commerce Date:</p>

				<p>seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables.</p> <p>International Class: 030 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts.</p> <p>International Class: 035 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items</p>	<p>2009-03-31 (Class 29 and 30)</p> <p>2009-03-03 (Class 35)</p>
77613789	3768693	2010-03-30	<p>HEARTLAND QUALITY OMAHA STEAKS SINCE 1917</p> 	<p>International Class: 029 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables.</p> <p>International Class: 030 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts.</p> <p>International Class: 035 on-line retail store services</p>	<p>First Use Date: 2009-04-30 (Class 29 and 30)</p> <p>2009-04-15 (Class 35)</p> <p>First Use in Commerce Date: 2009-04-30 (Class 29 and 30)</p> <p>2009-04-15 (Class 35)</p>

				featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items	
77731765	3774260	2010-04-13	OMAHA STEAKS	<p>International Class: 029 frozen entrees consisting primarily of meat, fish, poultry, seafood or vegetables; frozen meals consisting primarily of meat, fish, poultry, seafood or vegetables; meat; poultry; pork; frankfurters; bratwurst; hamburgers; sausages; soups; seafood; crabs; shrimp; lobsters; salmon; veal; processed lamb; frozen appetizers consisting primarily of chicken or seafood; beef jerky; prepared nuts; omelets; meatballs; dips; frozen vegetables.</p> <p>International Class: 030 sauces; bakery desserts; frozen entrees consisting primarily of pasta or rice; spring rolls; frozen meals consisting primarily of pasta or rice; rice cakes; seasonings; mustard; horseradish; cakes; cream puffs; cookies; cookie dough; breakfast burritos; tarts.</p> <p>International Class: 035 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items.</p>	<p>First Use Date: 1968-12-31 (Class 29 and 35)</p> <p>1996-09-01 (Class 30)</p> <p>First Use in Commerce Date: 1976-06-30 (Class 29 and 35)</p> <p>1996-09-01 (Class 30)</p>
77853788	3799411	2010-06-08	OMAHA STEAKS PRIVATE RESERVE 	<p>International Class: 030 Seasonings</p> <p>International Class: 035 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items; telephone shop-at-home services in the field of food and food related items</p>	<p>First Use Date: 2009-04-01 (Class 30)</p> <p>2008-10-01 (Class 35)</p> <p>First Use in Commerce Date: 2009-04-01 (Class 30)</p> <p>2008-10-01 (Class 35)</p>

77613760	3857498	2010-10-05	HEARTLAND QUALITY OMAHA STEAKS SINCE 1917 	International Class: 035 on-line retail store services featuring food and food related items; mail order catalog services featuring food and food related items, telephone shop-at-home services in the field of food and food related items; retail store services featuring food and food-related items.	First Use Date: 2009-04-30 First Use in Commerce Date: 2009-04-30
85153479	4172329	2012-07-10	OMAHA FRESH ANGUS BY OMAHA STEAKS	International Class: 029 angus meat	First Use Date: 2012-04-02 First Use in Commerce Date: 2012-04-02
85153496	4172330	2012-07-10	OMAHA FRESH BY OMAHA STEAKS	International Class: 029 Meat	First Use Date: 2012-04-02 First Use in Commerce Date: 2012-04-02
85153474		Notice of Allowance 05-31-2011	OMAHA FRESH BY OMAHA STEAKS	International Class: 035 Mail order catalog services featuring food and food related items; On-line retail store services featuring food and food related items; Retail stores featuring food and food related items; Wholesale food distributorship services	
85153488		Notice of Allowance 05-31-2011	OMAHA FRESH ANGUS BY OMAHA STEAKS	International Class: 035 Mail order catalog services featuring food and food related items; On-line retail store services featuring food and food related items; Retail stores featuring food and food related items; Wholesale food distributorship services	
85319059		Notice of Allowance 10-11-2011	OMAHA STEAKS	International Class: 035 Food kiosk services; mobile food kiosk services International Class: 043 Catering for the provision of food and beverages; Catering of food and drinks; Food preparation services; Mobile cafe services for providing food and drink; Preparation of food and beverages; Providing of food and drink; Serving of food and drink/beverages	

85319082		Notice of Allowance 10-11-2011	HEARTLAND QUALITY OMAHA STEAKS SINCE 1917 	International Class: 035 Food kiosk services; mobile food kiosk services International Class: 043 Catering for the provision of food and beverages; Catering of food and drinks; Food preparation services; Mobile cafe services for providing food and drink; Preparation of food and beverages; Providing of food and drink; Serving of food and drink/beverages	
85361435		Notice of Allowance 02-21-12	OMAHA STEAKS PRIVATE RESERVE 	International Class: 029 baked potatoes	
85383653		Notice of Allowance 02-28-12	OMAHA STEAKS PRIVATE RESERVE 	International Class: 030 Bakery desserts; Barbecue sauce; Bread; Breakfast burritos; Cakes; Cheesecake; Cookie dough; Cookies; Cream puffs; Flavored vinegar; Frozen foods, namely, grain and bread based appetizers, hors d'oeuvres and canapés; Frozen meals consisting primarily of pasta or rice; Gravy; Horseradish; Hot dog sandwiches; Ketchup; Macaroni salads; Mustard; Packaged meals consisting primarily of pasta or rice; Pasta salads; Prepared meals consisting primarily of pasta or rice; Rice cakes; Salad dressings; Sauces; Spring rolls; Tarts	
85383663		Notice of Allowance 02-28-12	OMAHA STEAKS PRIVATE RESERVE 	International Class: 029 Bacon; Beef; Beef jerky; Beef stick snack foods; Bratwurst; Cheese; Chicken; Corned beef; Crab cakes; Crabs; Dips; Fish fillets; Fish; Frankfurters; Frozen appetizers consisting primarily of chicken or seafood; Frozen entrees consisting primarily of meat, fish, poultry or vegetables; Frozen meals consisting primarily of meat, fish, poultry or vegetables;	

				<p>Frozen pre-packaged entrees consisting primarily of seafood; Frozen vegetables; Ham; Hash brown potatoes; Uncooked hamburger patties; Hot dogs; Liver; Mashed potatoes; Meatballs; Omelets; Packaged meals consisting primarily of meat, fish, poultry or vegetables; Pork; Potato fries; Potato skins; Poultry; Pre-cut vegetable salad; Prepared foods, namely, side dishes and casseroles mainly consisting of vegetables, potatoes, beans or fruit; Prepared meals consisting primarily of meat, fish, poultry or vegetables; Prepared nuts; Processed lamb; Processed potatoes; Roast beef; Salads except macaroni, rice and pasta salads; Salmon; Sausages; Seafood; Shellfish; Soups; Turkey; Veal</p>	
85383667		Notice of Allowance 02-28-12	<p>OMAHA STEAKS PRIVATE RESERVE</p> 	<p>International Class: 035 Customer loyalty services and customer club services, for commercial, promotional and advertising purposes; Administration of an incentive award program enabling participants to obtain discounts and complimentary awards on goods and services through membership; Mobile retail store services featuring food and food related items; Providing incentive award programs for customers by offering discounts on goods for the purpose of promoting and awarding loyalty; Retail store services featuring food and food related items</p>	