

ESTTA Tracking number: **ESTTA527362**

Filing date: **03/18/2013**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Farm Journal, Inc.
Granted to Date of previous extension	03/17/2013
Address	30 South 15th Street Suite 900 Philadelphia, PA 19102 UNITED STATES
Attorney information	Tore T. DeBella Drinker Biddle & Reath LLP 1500 K Street N.W. Suite 1100 Washington, DC 20005 UNITED STATES dctrademarks@dbr.com, tmlitdocket@dbr.com, tore.debella@dbr.com Phone:(202) 842-8800

Applicant Information

Application No	85543542	Publication date	09/18/2012
Opposition Filing Date	03/18/2013	Opposition Period Ends	03/17/2013
Applicant	International Farming Corporation, LLC 1291 US Highway 258 North Kinston, NC 28502 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Financial asset management; Financial investment in the field of real estate; Investment banking services; Investment management; Management of a capital investment fund; Private equity fund investment services; Real estate investment services; Real estate management of real estate assets
Class 042. All goods and services in the class are opposed, namely: Agricultural research; Agricultural services, namely, soil sampling and crop observing for analysis purposes; Research and development in the field of agronomy, farming, and crop yields

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration	1438016	Application Date	09/25/1986
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No.			
Registration Date	04/28/1987	Foreign Priority Date	NONE
Word Mark	TOP PRODUCER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1986/01/00 First Use In Commerce: 1986/01/00 MAGAZINE DEALING WITH AGRIBUSINESS		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TOP PRODUCER		
Goods/Services	providing seminars in the field of agribusiness; arranging and conducting educational conferences; conducting contests; providing information, news, and commentary in the field of agribusiness; on-line electronic newsletters delivered by email in the field of agribusiness; arranging peer to peer advisory boards in the field of agriculture.		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TOP PRODUCER EXECUTIVE NETWORK		
Goods/Services	arranging peer to peer advisory boards in the field of agriculture.		

Attachments	TOP PRODUCER PROGRAM NOO.pdf (8 pages)(289891 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/tore t. debella/
Name	Tore T. DeBella
Date	03/18/2013

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

In re App. Ser. No. 85/543,542– TOP PRODUCER PROGRAM
Filed: February 15, 2012

FARM JOURNAL, INC., :
 :
Opposer, :
 :
v. : Opposition No. _____
 :
INTERNATIONAL FARMING :
CORPORATION, LLC, :
 :

Applicant. :

NOTICE OF OPPOSITION

Farm Journal Inc., a Pennsylvania corporation, having a business address at 30 South 15th St., Suite 900, Philadelphia, PA 19102 (“Opposer”) believes that it will be damaged by the registration of the mark shown in application Serial No. 85/543,542 – TOP PRODUCER PROGRAM for the following services:

- “Financial asset management; Financial investment in the field of real estate; Investment banking services; Investment management; Management of a capital investment fund; Private equity fund investment services; Real estate investment services; Real estate management of real estate assets,” in Class 36; and
- “Agricultural research; Agricultural services, namely, soil sampling and crop observing for analysis purposes; Research and development in the field of agronomy, farming, and crop yields,” in Class 42.

Application Ser. No. 85/543,542 – TOP PRODUCER PROGRAM was filed by International Farming Corporation, LLC, a Delaware limited liability company, with an address at 1291 US Highway 258 North, Kinston, NC 28502 (“Applicant”). Opposer hereby opposes the same pursuant to Section 13 of the Trademark Act of 1946 (15 U.S.C. §1063).

As grounds for opposition, it is alleged that:

1. Opposer is the owner of Incontestable Reg. No. 1,438,016 – TOP PRODUCER for “Magazine dealing with agribusiness” in Class 16; registered April 28, 1987, based on use since as early as January 1986. A true and correct copy of the U.S. Patent and Trademark Office’s TSDR report for the foregoing registration, as well as a copy of the registration certificate, is attached hereto as Exhibit A.

2. Since at least as early as the dates shown in parentheses, Opposer has used the TOP PRODUCER mark in commerce in connection with providing seminars in the field of agribusiness (1997); arranging and conducting educational conferences (2007); conducting contests (2000); providing information, news, and commentary in the field of agribusiness (2007); and on-line electronic newsletters delivered by e-mail in the field of agribusiness (2007). By virtue of its bona fide use of the TOP PRODUCER mark in commerce with the foregoing services, which use was and is in a regular and recurring manner, Opposer has acquired common law rights.

3. Since before February 15, 2012, Opposer has used the TOP PRODUCER and TOP PRODUCER EXECUTIVE NETWORK marks in connection with arranging peer-to-peer advisory boards in the field of agriculture. By virtue of its bona fide use of the TOP PRODUCER and TOP PRODUCER EXECUTIVE NETWORK marks in commerce with the foregoing services, which use was and is in a regular and recurring manner, Opposer has acquired common law rights.

4. The marks identified in Paragraphs 1-3 above shall hereinafter collectively be referred to as “Opposer’s Marks.”

5. Opposer’s Marks were used before February 15, 2012, and are used currently, to identify content on the topics of asset management, investment management, real estate, and agricultural research and development, among other things.

6. By virtue of Opposer's extensive sales and promotion, Opposer's Marks have become well-known for the goods and services identified above, and have acquired a high degree of distinctiveness indicating source in the Opposer.

7. On information and belief, Applicant has not used the mark TOP PRODUCER PROGRAM in connection with any services sold, rendered, or distributed in the ordinary course of trade in the United States prior to February 15, 2012.

8. Applicant cannot claim a priority date in connection with the services covered by application Ser. No. 85/543,542- TOP PRODUCER PROGRAM earlier than February 15, 2012.

9. The goods and services for which Opposer has used and/or registered Opposer's Marks and the services for which Applicant has applied to register the TOP PRODUCER PROGRAM mark are closely related.

10. The goods and services for which Opposer has used and/or registered Opposer's Marks and the services for which Applicant has applied to register the TOP PRODUCER PROGRAM mark are likely to be sold, rendered, or distributed through the same or otherwise overlapping channels of trade.

11. Opposer's Marks and Applicant's TOP PRODUCER PROGRAM mark are similar in appearance, sound and commercial impression.

12. On information and belief, Applicant's use and registration of TOP PRODUCER PROGRAM in connection with the above-noted services in Classes 36 and 42 is likely to cause confusion, mistake or deception by having the public erroneously assume or believe that the services emanate from Opposer, or that they are endorsed, licensed or sponsored by, or in some other way associated or connected with Opposer, in view of Opposer's prior use of and registration of Opposer's Marks, all to Opposer's irreparable damage.

13. For the reasons set forth in ¶¶ 1-12, Opposer believes and asserts that it will be damaged by the registration of the mark in application Ser. No. 85/543,542– TOP PRODUCER PROGRAM. Accordingly, Opposer prays that this opposition be sustained and that Applicant be refused registration of the TOP PRODUCER PROGRAM mark for the services set forth in application Ser. No. 85/543,542.

The filing fee for this Notice of Opposition is being paid electronically. If for any reason the electronic payment is rejected, or if additional fees are required, please charge them to the deposit account of the undersigned, No. 50-0573.

Respectfully submitted,

FARM JOURNAL, INC.

By: _____

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Brian A. Coleman
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EXHIBIT A



Attention API Users! The urls for accessing status xml and downloads are changing. The protocol will change from http to https and the hostnames will change from tdr to tsdr. An example of the new url is https://adrapr.uspto.gov/tsdr/cases/status/en12345678/info.xml. Also, the download url is changing. There will be one url for PDF downloads and one for ZIP downloads. An example PDF download url is https://adrapr.uspto.gov/tsdr/cases/docs/en12345678/mega-bundle-download?case=true&docs=1,2&assignments=1,2&prosecutionHistory=1,2. An example url for ZIP download is https://adrapr.uspto.gov/tsdr/cases/docs/en12345678/zip-bundle-download?case=false&docs=1,2&assignments=1,2&prosecutionHistory=1,2.

Trademark Status & Document Retrieval (TSDR)

SEARCH | MULTI-SEARCH

US Serial No: 73621979

SEARCH | EXECUTE

Status results found

STATUS | DOCUMENTS

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Mark: TOP PRODUCER

US Serial Number: 73621979 Application Filing Date: Sep. 25, 1986
 US Registration Number: 1438010 Registration Date: April 28, 1997
 Registrar: Principal
 Mark Type: Trademark
 Status: The registration has been renewed.
 Status Date: Feb. 06, 2007
 Publication Date: Feb. 03, 1987

Mark Information

Related Properties Information

Goods and Services

Basis Information (Case Level)

Current Owner(s) Information

Owner Name: FARM JOURNAL, INC.
 Owner Address: Suite 1100
 30 South 15th Street
 Philadelphia, PENNSYLVANIA 19102
 UNITED STATES
 Legal Entity Type: CORPORATION State or Country Where Organized: PENNSYLVANIA

Attorney/Correspondence Information

Prosecution History

Date	Description	Proceeding Number
Jul. 06, 2010	APPLICANT/CORRESPONDENCE CHANGE(S) NON-RESPONSIVE/ENTERED	89888
Jul. 06, 2010	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Feb. 06, 2007	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	89934
Feb. 06, 2007	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Feb. 06, 2007	ASSIGNED TO PARALEGAL	89934
Nov. 28, 2005	CASE FILED IN TCRS	
Nov. 07, 2005	REGISTERED - COMBINED SECTION 6 (10 YR) & SEC. 9 FILED	
Nov. 07, 2005	PAPER RECEIVED	
Jul. 22, 1992	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
May 13, 1992	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Apr. 28, 1987	REGISTERED-PRINCIPAL REGISTER	
Feb. 03, 1987	PUBLISHED FOR OPPOSITION	
Jan. 04, 1987	NOTICE OF PUBLICATION	
Dec. 05, 1986	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 26, 1986	ASSIGNED TO EXAMINER	59850

Maintenance Filings or Post Registration Information

TM Staff and Location Information

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

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- Federal Activities Inventory Reform (FAIR) Act
- Notification and Federal Employee Antidiscrimination and Retaliation (NoFEDAR) Act
- Budget & Performance

- Freedom of Information Act (FOIA)
- Department of Commerce HOFEAR Act Report
- Regulations.gov
- STOP!faketa.gov

- Stakeholder Targeting Organized Privacy (STOP)
- Information Quality Guidelines
- Department of Commerce
- USPTO Webmaster

Int. Cl.: 16

Prior U.S. Cl.: 38

United States Patent and Trademark Office

Reg. No. 1,438,016

Registered Apr. 28, 1967

**TRADEMARK
PRINCIPAL REGISTER**

TOP PRODUCER

FARM JOURNAL, INC. (PENNSYLVANIA COR-
PORATION)
230 WEST WASHINGTON SQUARE
PHILADELPHIA, PA 19103

FIRST USE 1-0-1946 IN COMMERCE
1-0-1946
OWNER OF U.S. REG. NOS. 1,240,286 AND
1,389,194.

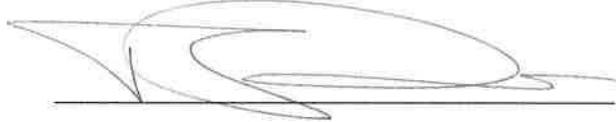
FOR: MAGAZINE DEALING WITH AGRI-
BUSINESS IN CLASS 16 (U.S. CL. 38)

SER. NO. 621,979, FILED 9-23-1966.
PAUL F. GAST, EXAMINING ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition was served on Applicant's counsel at the following address of record, by First Class Mail this 18 day of March, 2013.

David W. Sar
Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.
PO Box 26000
Greensboro, NC 27420-6000

A handwritten signature in black ink, appearing to read "David W. Sar", is written over a horizontal line. The signature is stylized and somewhat cursive.