

ESTTA Tracking number: **ESTTA665980**

Filing date: **04/10/2015**

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	Tyson Foods, Inc.
Granted to Date of previous extension	04/15/2015
Address	2200 Don Tyson Parkway Springdale, AR 72762 UNITED STATES

Attorney information	Clifford C. Dougherty, III McAfee & Taft 211 N. Robinson 10th Floor, Two Leadership Square Oklahoma City, OK 73102 UNITED STATES cliff.dougherty@mcafeetaft.com,zach.oubre@mcafeetaft.com,teresa.purcell@mcafeetaft.com,rhonda.melton@mcafeetaft.com Phone:(405) 235-9621
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Applicant Information

Application No	86199235	Publication date	12/16/2014
Opposition Filing Date	04/10/2015	Opposition Period Ends	04/15/2015
Applicant	Tansky, Leonid 4472 Four Winds Lane Northbrook, IL 60062 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 2009/09/11 First Use In Commerce: 2009/09/11
All goods and services in the class are opposed, namely: Honey; Processed grains; Processed grains, namely, buckwheat

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1205623	Application Date	08/31/1981
Registration Date	08/17/1982	Foreign Priority Date	NONE
Word Mark	TYSON		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1980/01/15 First Use In Commerce: 1980/01/15 Fresh and Frozen Chicken and Parts Thereof		

U.S. Registration No.	1748683	Application Date	01/06/1992
Registration Date	01/26/1993	Foreign Priority Date	NONE
Word Mark	TYSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1958/00/00 First Use In Commerce: 1958/00/00 FRESH AND FROZEN, COOKED AND UNCOOKED MEAT AND POULTRY SOLD SEPARATELY AND AS PART OF PREPACKAGED PREPARED MEALS Class 030. First use: First Use: 1988/00/00 First Use In Commerce: 1988/00/00 [snack foods; namely, tortillas and tortilla chips]		

U.S. Registration No.	2810231	Application Date	03/06/2003
Registration Date	02/03/2004	Foreign Priority Date	NONE
Word Mark	TYSON		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 029. First use: First Use: 2003/01/10 First Use In Commerce: 2003/01/10 Beef and pork

U.S. Registration No.	2833874	Application Date	12/16/2002
Registration Date	04/20/2004	Foreign Priority Date	NONE

Word Mark	TYSON
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 029. First use: First Use: 2003/01/00 First Use In Commerce: 2003/01/00 Luncheon meats [, pepperoni] and sausage
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U.S. Registration No.	2868632	Application Date	02/24/2003
Registration Date	08/03/2004	Foreign Priority Date	NONE

Word Mark	TYSON
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 029. First use: First Use: 2002/11/06 First Use In Commerce: 2002/11/06 Canned chicken, [chicken bouillon, beef bouillon, chicken broth, beef broth,]chicken in a pouch, and chicken prepared with mayonnaise and sweet relish
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U.S. Registration No.	3204061	Application Date	05/01/2006
Registration Date	01/30/2007	Foreign Priority	NONE

		Date	
Word Mark	TYSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2002/10/26 First Use In Commerce: 2002/10/26 Omelets Class 030. First use: First Use: 2002/10/26 First Use In Commerce: 2002/10/26 Crepes		

U.S. Registration No.	3998293	Application Date	03/03/2011
Registration Date	07/19/2011	Foreign Priority Date	NONE
Word Mark	TYSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2010/03/15 First Use In Commerce: 2010/03/15 Chicken Sandwich		

U.S. Registration No.	4222004	Application Date	04/09/2012
Registration Date	10/09/2012	Foreign Priority Date	NONE
Word Mark	TYSON		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2012/01/30 First Use In Commerce: 2012/01/30 Bread bowls filled with pork or chicken and vegetables or eggs, and cheese

U.S. Registration No.	4222031	Application Date	04/30/2012
Registration Date	10/09/2012	Foreign Priority Date	NONE
Word Mark	TYSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2011/12/07 First Use In Commerce: 2011/12/07 Bruschetta-topped bread		

Attachments	73326149#TMSN.png(bytes) 76494902#TMSN.png(bytes) 76475232#TMSN.png(bytes) 76494742#TMSN.png(bytes) 78873313#TMSN.png(bytes) 85257171#TMSN.png(bytes) 85592674#TMSN.png(bytes) 85611994#TMSN.png(bytes) Notice of Opposition.pdf(401732 bytes) Exhibit A.pdf(387017 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	/CCD, III/
Name	Clifford C. Dougherty, III
Date	04/10/2015

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

In re Application Serial No. 86/199,235
Filing Date: February 20, 2014
Mark: HYSON
Published in the Official Gazette on December 16, 2014

Tyson Foods, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Leonid Tansky,)	
)	
Applicant.)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Tyson Foods, Inc. (“Tyson”) hereby opposes registration of the mark of United States Application Serial No. 86/199,235 (the “Opposed Application”), which was filed by Leonid Tansky (“Applicant”) in International Class 30 on February 20, 2014.

The Opposed Application was published on December 16, 2014. Tyson filed a request with the Trademark Trial and Appeal Board of the United States Patent and Trademark Office (the “Board”) for a 90 day extension of time to oppose on January 14, 2015. Pursuant to an order from Board mailed on January 14, 2015, Tyson was given until April 15, 2015 to file this Notice of Opposition.

Tyson’s grounds for opposition are as follows:

1. Tyson is a Delaware corporation having a principal place of business at 2200 Don Tyson Parkway, Springdale, Arkansas 72762.

2. As listed in the Opposed Application, Applicant is an individual residing at 4472 Four Winds Lane, Northbrook, Illinois 60062.

3. Applicant seeks to register the mark "HYSON" (the "Opposed Mark") on the Principal Register in International Class 30 for "Honey; Processed grains; Processed grains, namely, buckwheat" (the "Opposed Goods"). The Opposed Application was filed under 15 U.S.C. § 1052(a), and claims a date of first use (anywhere and in commerce) of September 11, 2009.

4. Tyson is one of the largest producers and marketers of food products in the United States. The TYSON name and mark was first used in association with chicken in the United States in the 1930s. The TYSON name and mark is now well known as a household brand for a large variety of proteins and other food products. Tyson is a Forbes Fortune 100 company having billions of dollars in annual sales.

5. Tyson is the owner of numerous United States trademark registrations for the mark TYSON and logos incorporating the mark TYSON (collectively the "TYSON Mark"), including the following:

Reg. No.	Reg. Date	Goods
1,205,623	08/17/1982	Fresh and frozen chicken and parts thereof, Class 029
1,748,683	01/26/1993	Fresh and frozen, cooked and uncooked meat and poultry sold separately and as part of prepackaged prepared meats, Class 029
2,810,231	02/03/2004	Beef and pork, Class 029
2,833,874	04/20/2004	Luncheon meats and sausage, Class 029
2,868,632	08/03/2004	Canned chicken, chicken in a pouch, and chicken prepared with mayonnaise and sweet relish, Class 029
3,204,061	01/30/2007	Omelets, Class 029; crepes, Class 030

3,998,293	07/19/2011	Chicken sandwich, Class 030
4,222,004	10/09/2012	Bread bowls filled with pork or chicken and vegetables or eggs, and cheese, Class 030
4,222,031	10/09/2012	Bruschetta-topped bread, Class 030

The above registrations are attached as Exhibit A.

6. Tyson has expended a great deal of effort and considerable expense in advertising, promoting, offering for sale and selling its goods and services under the TYSON Mark within the United States. Tyson has been very careful to control the quality of the goods and services sold under the TYSON Mark and has thereby established an excellent reputation and valuable goodwill in association with the mark.

7. Based on its extensive and long-time use, the TYSON mark has been widely recognized by the general consuming public of the United States as a designation of source of the goods and services of Tyson since well before Applicant's use of the Opposed Mark. As a result, the TYSON mark has been a famous and distinctive mark pursuant to Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c), since well before Applicant first used the Opposed Mark.

8. There is no issue as to priority in this case. Tyson's rights to the TYSON Mark date back to the 1930's. Based on its incontestable registrations, Tyson has nationwide priority to the TYSON mark. According to the Opposed Application, Applicant first used the Opposed Mark on September 11, 2009.

9. The Opposed Mark so resembles the TYSON Mark as to be likely, when used in connection with the Opposed Goods, to cause confusion, or to cause mistake, or to deceive. The mark HYSON is highly similar to the TYSON Mark in appearance, sound, and overall commercial impression. The Opposed Goods directly overlap with and are highly related to goods sold by Tyson in association with the TYSON Mark.

10. The Opposed Mark is likely to cause dilution by blurring and dilution by tarnishment of the famous TYSON Mark, regardless of the presence of actual or likely confusion or competition or actual economic injury. Due to its long time and extensive use, the TYSON Mark has tremendous brand equity and is associated with a very high level of good will in the United States. Applicant's use of such a similar mark, HYSON, will dilute such brand equity and good will by blurring and tarnishment. The distinctiveness of the TYSON Mark will be impaired. Furthermore, Applicant's use of the Opposed Mark will harm the TYSON Mark and the brand equity and goodwill associated therewith. For example, any inferiority in Applicant's goods as compared to Tyson's goods will harm the TYSON Mark.

11. If Applicant is allowed to register the Opposed Mark, it will obtain statutory rights to the mark that will conflict with and substantially degrade Tyson's rights in the TYSON Mark and its corresponding registrations. Tyson's goodwill and reputation will be jeopardized by Applicant's registration of the Opposed Mark. Poor quality of the goods of Applicant will greatly harm Tyson's reputation and translate to lost sales by Tyson.

12. Applicant's claim of ownership with respect to U.S. Registration No. 3,543,222 in the Opposed Application is improper. U.S. Registration No. 3,543,222 is not owned by Applicant, but is owned by a separate entity. The fact that Applicant is the president of such entity is irrelevant.

WHEREFORE, Tyson prays that the Opposed Application be refused and that this Opposition be sustained and any other and further relief as is deemed just and proper.

Respectfully submitted,



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Oklahoma City, Oklahoma
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Fax: 405-228-7302
E-Mail: cliff.dougherty@mcafeetaft.com
Attorney for Opposer

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Applicant by mailing said copy this 10th day of April 2015, via first class, certified mail, return receipt requested, to:

Allison M. Corder
Valauskas Corder LLC
150 S. Wacker Drive, Suite 620
Chicago, Illinois 60606

the attorney of record in the opposed application.

I further hereby certify that true and complete copy of the foregoing NOTICE OF OPPOSITION was transmitted electronically to the Commissioner for Trademarks at <http://esta.uspto.gov/filing-type.jsp>



Clifford C. Dougherty, III

Int. Cl.: 29

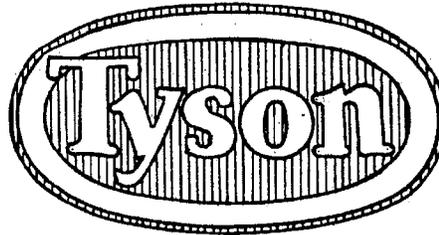
Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,205,623

Registered Aug. 17, 1982

TRADEMARK
Principal Register



Tyson Foods, Inc. (Arkansas corporation)
Drawer E
Springdale, Ark. 72764

For: **FRESH AND FROZEN CHICKEN AND PARTS THEREOF**, in CLASS 29 (U.S. Cl. 46).

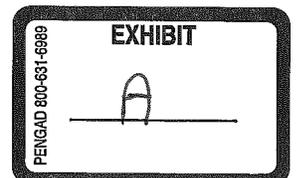
First use Jan. 15, 1980; in commerce Jan. 15, 1980.

Owner of U.S. Reg. Nos. 776,266, 892,133 and 972,496.

The drawing is lined for the color red, and claim is made to such color.

Ser. No. 326,149, filed Aug. 31, 1981.

RICHARD A. STRASER, Primary Examiner



Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office **Reg. No. 1,748,683**
Registered Jan. 26, 1993

**TRADEMARK
PRINCIPAL REGISTER**

TYSON

TYSON FOODS, INC. (DELAWARE CORPORATION)
P.O. BOX 2020
SPRINGDALE, AR 72765

FOR: FRESH AND FROZEN, COOKED AND UNCOOKED MEAT AND POULTRY SOLD SEPARATELY AND AS PART OF PREPACKAGED PREPARED MEALS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 0-0-1958; IN COMMERCE 0-0-1958.
FOR: SNACK FOODS; NAMELY TORTILLAS AND TORTILLA CHIPS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 0-0-1988; IN COMMERCE 0-0-1988.
SEC. 2(F).

SER. NO. 74-235,421, FILED 1-6-1992.

RACHEL BLUE, EXAMINING ATTORNEY

Int. Cl.: 29

Prior U.S. Cl.: 46

Reg. No. 2,810,231

United States Patent and Trademark Office

Registered Feb. 3, 2004

**TRADEMARK
PRINCIPAL REGISTER**

TYSON

TYSON FOODS, INC. (DELAWARE CORPORATION)
2210 W. OAKLAWN DRIVE
SPRINGDALE, AR 72762

OWNER OF U.S. REG. NOS. 776,266, 2,461,276 AND
OTHERS.

SEC. 2(F).

FOR: BEEF AND PORK, IN CLASS 29 (U.S. CL. 46).

SER. NO. 76-494,902, FILED 3-6-2003.

FIRST USE 1-10-2003; IN COMMERCE 1-10-2003.

MELVIN AXILBUND, EXAMINING ATTORNEY

Int. Cl.: 29

Prior U.S. Cl.: 46

Reg. No. 2,833,874

United States Patent and Trademark Office

Registered Apr. 20, 2004

**TRADEMARK
PRINCIPAL REGISTER**

TYSON

TYSON FOODS, INC. (DELAWARE CORPORATION)
2210 W. OAKLAWN DRIVE
SPRINGDALE, AR 72762

FOR: LUNCHEON MEATS, PEPPERONI AND
SAUSAGE, IN CLASS 29 (U.S. CL. 46).

FIRST USE 1-0-2003; IN COMMERCE 1-0-2003.

OWNER OF U.S. REG. NOS. 1,205,623 AND
1,748,683.

SEC. 2(F).

SER. NO. 76-475,232, FILED 12-16-2002.

INGA ERVIN, EXAMINING ATTORNEY

Int. Cl.: 29

Prior U.S. Cl.: 46

Reg. No. 2,868,632

United States Patent and Trademark Office

Registered Aug. 3, 2004

**TRADEMARK
PRINCIPAL REGISTER**

TYSON

TYSON FOODS, INC. (DELAWARE CORPORATION)
2210 W. OAKLAWN DRIVE
SPRINGDALE, AR 72762

OWNER OF U.S. REG. NOS. 776,266, 1,748,683 AND
OTHERS.

FOR: CANNED CHICKEN, CHICKEN BOUILLON,
BEEF BOUILLON, CHICKEN BROTH, BEEF
BROTH, CHICKEN IN A POUCH, AND CHICKEN
PREPARED WITH MAYONNAISE AND SWEET
RELISH, IN CLASS 29 (U.S. CL. 46).

SEC. 2(F).

SER. NO. 76-494,742, FILED 2-24-2003.

FIRST USE 11-6-2002; IN COMMERCE 11-6-2002.

JULIE WATSON, EXAMINING ATTORNEY

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,204,061

Registered Jan. 30, 2007

TRADEMARK
PRINCIPAL REGISTER

TYSON

TYSON FOODS, INC. (DELAWARE CORPORATION)
AR058124
2210 W. OAKLAWN DRIVE
SPRINGDALE, AR 72762

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

FIRST USE 10-26-2002; IN COMMERCE 10-26-2002.

FOR: CREPES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 10-26-2002; IN COMMERCE 10-26-2002.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,748,683, 2,810,231, AND 2,833,874.

SEC. 2(F).

SER. NO. 78-873,313, FILED 5-1-2006.

CHERYL CLAYTON, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

TYSON

Reg. No. 3,998,293

Registered July 19, 2011

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER

TYSON FOODS, INC. (DELAWARE CORPORATION)
2200 DON TYSON PARKWAY
SPRINGDALE, AR 72762

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 3-15-2010; IN COMMERCE 3-15-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,748,683, 2,833,874 AND OTHERS.

SER. NO. 85-257,171, FILED 3-3-2011.

HEATHER SAPP, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

TYSON

Reg. No. 4,222,004

Registered Oct. 9, 2012

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER

TYSON FOODS, INC. (DELAWARE CORPORATION)
2200 DON TYSON PARKWAY
SPRINGDALE, AR 72762

FOR: BREAD BOWLS FILLED WITH PORK OR CHICKEN AND VEGETABLES OR EGGS,
AND CHEESE, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-30-2012; IN COMMERCE 1-30-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,748,683, 2,868,632 AND OTHERS.

SER. NO. 85-592,674, FILED 4-9-2012.

ROBIN MITTLER, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

Tyson

Reg. No. 4,222,031

Registered Oct. 9, 2012

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER

TYSON FOODS, INC. (DELAWARE CORPORATION)
2200 DON TYSON PARKWAY
SPRINGDALE, AR 72762

FOR: BRUSCHETTA-TOPPED BREAD, IN CLASS 30 (U.S. CL. 46).

FIRST USE 12-7-2011; IN COMMERCE 12-7-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,748,683, 2,833,874 AND OTHERS.

SER. NO. 85-611,994, FILED 4-30-2012.

ROBIN MITTLER, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office