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

Proceeding	77292281
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Windsor Quality Food Co., Ltd. )  
Serial No.: 77/292,281 ) Trademark Law Office: 104  
Filing Date: September 29, 2007 ) Examining Attorney: Jenny Park  
Mark: FANCY FRIES )

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

**APPEAL BRIEF FOR APPLICANT**

**INDEX OF CASES**

*Abercrombie & Fitch Co. v. Hunting World, Inc.*, 537 F.2d 4, 189 USPQ 759 (2nd Cir. 1976)

*Holiday Inns, Inc. v. Monolith Enters.*, 212 USPQ 949, 952 (TTAB 1981)

*In re Abcor Dev. Corp.*, 616 F.2d 525, 200 USPQ 215 (CCPA 1978)

*In re Aid Labs., Inc.*, 221 USPQ 1215 (TTAB 1983)

*In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979)

*In re Classic Beverage Inc.*, 6 USPQ2d 1383 (TTAB 1988)

*In re Colonial Stores Inc.*, 394 F.2d 549, 157 USPQ 382 (CCPA 1968)

*In re Conductive Sys., Inc.*, 220 USPQ 84 (TTAB 1983)

*In re Copytele Inc.*, 31 USPQ2d 1540 (TTAB 1994)

*In re Diet Tabs, Inc.*, 231 USPQ 587, 588 (TTAB 1986)

*In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1111-1112 (Fed. Cir. 1987)

*In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987)

*In re Joseph Bancroft & Sons Co.*, 129 USPQ 329 (TTAB 1961)

*In re Merrill, Lynch, Pierce, Fenner, and Smith Inc.*, 828 F.2d 1567, 4 USPQ2d 1141 (Fed. Cir. 1987)

*In re Nat'l Shooting Sports Found., Inc.*, 219 USPQ 1018 (TTAB 1983)

*In re Polo Int'l Inc.*, 51 USPQ2d 1061 (TTAB 1999)

*In re Putnam Publ'g Co.*, 39 USPQ2d 2021 (TTAB 1996)

*In re TMS Corp. of the Americas*, 200 USPQ 57 (TTAB 1978)

*Plus Prods. v. Med. Modalities Assocs., Inc.*, 211 USPQ 1199 (TTAB 1981)

*Safe-T Pacific Co. v. Nabisco, Inc.*, 204 USPQ 307 (TTAB 1979)

## INTRODUCTION

Pursuant to a Notice of Appeal filed with the Trademark Trial and Appeal Board (“TTAB”), Applicant hereby timely files its brief in support of its appeal from the decision of the Examining Attorney dated August 5, 2008, finally refusing registration of Applicant’s mark. Applicant respectfully requests that the TTAB reverse the Examining Attorney’s decision on the ground that Applicant’s mark is not merely descriptive of Applicant’s goods.

## STATEMENT OF FACTS

Applicant’s trademark application was filed on September 29, 2007, and received U.S. Trademark Application Serial No. 77/292,281. Applicant seeks registration on the Principal Register for the mark “FANCY FRIES” in International Class 029 in connection with “frozen vegetables.” In an Office Action dated January 11, 2008 (“Office Action”), the Examining

Attorney refused registration under § 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1) on the ground that the mark merely describes Applicant's goods.

Applicant filed a response to the Office Action on July 12, 2008, arguing that the "FANCY FRIES" mark is not merely descriptive of frozen vegetables, that the terms separately and/or taken together are not merely descriptive of the goods, and that "FANCY FRIES" combines two terms resulting in a suggestive unitary mark with respect to "frozen vegetables."

Notwithstanding Applicant's response, the Examining Attorney reiterated her position in a Final Office Action, dated August 5, 2008 ("Final Office Action"). Applicant respectfully disagrees with the refusal to register under § 2(e)(1) and appeals to the TTAB requesting that the Examining Attorney's decision be reversed based on the arguments which follow.

### ARGUMENTS

A term is merely descriptive of goods or services within the meaning of § 2(e)(1) if it "directly and immediately conveys some knowledge of the characteristics of a product or service." 2 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* §11:51 at 11-123 (2008). See also *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). To determine whether a term is merely descriptive, it must not be considered in the abstract, but rather in relation to the goods for which registration is sought, the context in which it is being used, and in view of the possible significance that the term would have to the average purchaser of the goods because of the manner of its use. See, *In re Polo Int'l Inc.*, 51 USPQ2d 1061 (TTAB 1999); see also, *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). In making a determination of descriptiveness any doubt must be resolved on behalf of the applicant. See *In re Aid Labs., Inc.*, 221 USPQ 1215 (TTAB 1983); see also *In re Conductive Sys., Inc.*, 220 USPQ 84 (TTAB 1983).

Regarding the burden of proof, the Examining Attorney bears the burden of showing that a mark is merely descriptive of the relevant goods. *In re Merrill, Lynch, Pierce, Fenner, and Smith Inc.*, 828 F.2d 1567, 4 USPQ2d 1141, 1143 (Fed. Cir. 1987). A mark is descriptive if it “forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods.” *Abercrombie & Fitch Co. v. Hunting World, Inc.*, 537 F.2d 4, 189 USPQ 759, 765 (2nd Cir. 1976) (emphasis added). See also *In re Abcor Dev. Corp.*, 616 F.2d 525, 200 USPQ 215 (CCPA 1978). Moreover, the mark must immediately convey the information as to the ingredients, qualities or characteristics of the goods with a “degree of particularity” in order to be descriptive. *Plus Prods. v. Med. Modalities Assocs., Inc.*, 211 USPQ 1199, 1204-1205 (TTAB 1981); see also, *In re Diet Tabs, Inc.*, 231 USPQ 587, 588 (TTAB 1986); *Holiday Inns, Inc. v. Monolith Enters.*, 212 USPQ 949, 952 (TTAB 1981); and *In re TMS Corp. of the Americas*, 200 USPQ 57, 59 (TTAB 1978).

**A. THE TERMS IN THE “FANCY FRIES” MARK ARE NOT MERELY DESCRIPTIVE OF THE ASSOCIATED GOODS.**

As previously noted, the Examining Attorney refused to register Applicant’s mark on the basis that the terms “FANCY FRIES” in Applicant’s mark for “frozen vegetables” would, upon being encountered by consumers in the context of these goods, immediately be perceived as identifying “the fact that Applicant’s goods are fancy or superior quality vegetables for frying.” It is Applicant’s position that neither individual term of Applicant’s mark would immediately convey such a meaning with the degree of particularity required for a finding of descriptiveness. Under the standard provided by *Plus Prods.*, 211 USPQ at 1204-05, *Abercrombie*, 189 USPQ at 765, and similar cases, the Examining Attorney has failed to make a valid *prima facie* case of descriptiveness, particularly when doubt is resolved in Applicant’s favor. Consequently, the Examining Attorney’s refusal is in error.

**I. The term “FANCY” does not merely describe Applicant’s frozen vegetables.**

The term “FANCY” does not immediately impart any definite or particular information about Applicant’s goods. According to TMEP §1209.03(e), “If a term has a primary significance that is descriptive in relation to at least one of the recited goods/services, and does not create any double entendre or incongruity, then the term is merely descriptive.” The logical contrapositive corollary of this statement is that a term is not merely descriptive if it (1) does not have a primary significance that is descriptive in relation to at least one of the recited good/services or (2) if the term creates any double meaning or incongruity whatsoever.

Turning first to “primary significance,” the definitions cited by the Examining Attorney show there are numerous definitions for the term “FANCY.” In the Office Action and Final Office Action, the Examining Attorney claimed that the third listed definition, specifically, “3. *U.S. high quality*: describes food items of superior quality,” is the primary definition which would be immediately conveyed with particularity to the consumer upon encountering Applicant’s frozen vegetables in the marketplace; however, the Examining Attorney provided no supporting evidence for this proposition. Rather, the first and more common definitions of “FANCY” in the cited reference include “1. not plain: elaborately or ornately decorated”; and “2. intricate: intricately or skillfully performed.” Less common definitions include: “4. expensive: expensively priced or high valued”; and “5. selectively bred.” Thus, if given its primary significance, as prescribed by TMEP §1209.03(e), the term “FANCY” in the context of Applicant’s goods should be construed as suggestive if not arbitrary, conjuring as a primary image “not plain,” “elaborate” or “ornately decorated” goods. The Examining Attorney strains to employ a tertiary and cherry-picked definition to assert descriptiveness as applied to Applicant’s frozen vegetables with supporting evidence. This forced definition is insufficient to

demonstrate that the primary and immediate significance of the term “FANCY” for the relevant consumer would be merely descriptive of a particular facet of Applicant’s frozen vegetables.

A case with similar facts and analysis in the food and beverage industry is *In re Classic Beverage Inc.*, 6 USPQ2d 1383 (TTAB 1988). The issue involved was whether the “CLASSIC COLA” mark would be perceived by prospective customers of soft drinks as merely laudatory and therefore merely descriptive. *Id.* at 1385. In support of the refusal to register, the examining attorney made of record a copy of a definition from *Webster’s New Collegiate Dictionary* showing the word “classic” to mean “of recognized value: serving as a standard of excellence.” *Id.* at 1384. The applicant submitted a definition from *Webster’s Third New International Dictionary*, showing that there were many definitions of the term, “some of which might be considered laudatory in nature as applied to some things.” *Id.* In reversing the refusal to register, the TTAB stated, “there is no evidence showing that the term is applied descriptively to soft drinks or is used by anyone else in the trade.” *Id.* at 1386. The TTAB concluded:

[H]ere the term “CLASSIC” does not impart any definite information about applicant’s cola. There is no evidence that the mark is used on an established or traditional cola product, that there is a traditional standard for such goods, recognized and identified by the word “CLASSIC,” or that applicant’s cola is somehow of particular significance in the field or is an accepted standard of excellence. . . . Applicant’s mark, “CLASSIC COLA,” is at most suggestive of a characteristic that goods of this type could possibly possess. This suggestion could be characterized as being laudatory, in that if true it could be deemed to be praise for the product, but whatever laudatory nature the mark possesses is so indirect as applied to these goods that it fails to reach the significance required for the mark to be refused registration under Section 2(e)(1) as being merely descriptive of the goods. At most the mark would be regarded as trade puffery, suggesting that the cola possesses the enduring qualities of a classic.

Moreover, turning to “double meaning,” the Examining Attorney cites no reason or authority as to why the third cited definition from the Office Action and Final Office Action must be employed and the other definitions must be excluded or ignored. The other definitions

could just as easily be applied to Applicant's goods, indicating that the term "FANCY" could have separate meanings as applied to Applicant's goods. This indicates that the term "FANCY" is capable of a double meaning, and therefore cannot be merely descriptive under TMEP §1209.03(e). This position is further buttressed in light of the additional definitions supplied in the Examining Attorney's reference, particularly: "1. *U.K.* wish for something." Under this interpretation, the understanding conveyed by the "FANCY FRIES" mark may be a shorthand rhetorical query, namely, "Would you fancy some fries?" or in an imperative, namely, "You should fancy fries." As stated in TMEP §1209.03(e), recounted above, if a double meaning is plausible, with doubt resolved in the applicant's favor, a given term is not merely descriptive. Consequently, the Examining Attorney's refusal is doubly inappropriate and should be reversed.

Further illustrating the Examining Attorney's lack of a *prima facie* case of mere descriptiveness, especially in view of *In re Classic Beverage*, the Examining Attorney has not provided evidence that her definition of the term "FANCY" is or has ever been applied descriptively to "frozen vegetables," or that "FANCY" has ever been used descriptively by anyone in the food trade as a whole. Similarly, the Examining Attorney has not shown that there is any meaningful standard for such descriptive use in the food industry or that Applicant's goods are somehow of particular significance in the field with respect thereto. Likewise, the Examining Attorney has presented no evidence that Applicant has descriptively used the "FANCY FRIES" mark on products that are touted to fit the cherry-picked definition insisted on by the Examining Attorney, namely, "food items of high quality."

In the absence of any reason to accept the Examining Attorney's shoehorning of an atypical definition as the primary meaning of the term as applied to frozen vegetables, and in light of the double meaning inherent to the term "FANCY" in the context of Applicant's goods,



Applicant's "FANCY FRIES" mark is at least suggestive. Whatever descriptive nature the Examining Attorney has stated that the term "FANCY" may possess, it is so indirect as applied to frozen vegetables that it fails to reach the significance required for the mark to be found "merely descriptive." Consequently, the Examining Attorney's refusal is in error.

**II. The term "FRIES" does not merely describe Applicant's frozen vegetables.**

Furthermore, the definition for "FRIES" supplied by the Examining Attorney's reference states that the term "FRY" is a synonym for "French fries," or more specifically, French fried potatoes; however, French fried potatoes are not Applicant's goods. To the contrary, Applicant's goods in the application as well as the marketplace are frozen vegetables, a French fry alternative. Applicant's products include such items as green beans, portobello mushrooms, asparagus and battered eggplant and not traditional "French fries." This may be seen by examining the Applicant's webpage, included as a reference in the Final Office Action. Irrespective of the marketplace realities or Applicant's identification of goods, the Examining Attorney has nonetheless maintained that the term "FRIES" is merely descriptive of Applicant's goods.

Consequently, Applicant asserts that the Examining Attorney's definition, while perhaps appropriate for French fried potatoes, is incorrectly applied to Applicant's "frozen vegetables." In support of this position, Applicant notes the following third-party registrations "to show the sense in which a term . . . is used in ordinary parlance" 2 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* §11:90 at 11-206:

- **MY FRIES**, Registration No. 3,321,775 for frozen processed potatoes and French fried potatoes;
- **FUN FRIES**, Registration No. 3,283,846, for French fried potatoes;

- **EASY FRIES**, Registration No. 3,009,510, for processed potatoes; and
- **FREEDOM FRIES**, with “FRIES” disclaimed, Registration No. 3,220,999, for fried potatoes, potato crisps, potato chips, potato snack foods, frozen and processed potatoes.

Illustratively, based on a cursory search of the records of the USPTO database, over 220 database matches were identified for “FRIES” relating to fried potatoes. Consequently, it is evident that the primary understanding of the term “FRIES” does not merely describe Applicant’s frozen vegetables, but rather would be merely descriptive of French fries. Therefore, the term “FRIES,” just like the term “FANCY,” is not descriptive of Applicant’s goods.

In view of the above arguments, the “FANCY FRIES” mark for frozen vegetables is conspicuously unlike other marks where the combination of terms makes immediate descriptive sense. *See, e.g., In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1111-1112 (Fed. Cir. 1987) (SCREENWIPE held generic as applied to premoistened antistatic cloths for cleaning computer and television screens); *In re Copytele Inc.*, 31 USPQ2d 1540 (TTAB 1994) (SCREEN FAX PHONE held merely descriptive of facsimile terminals employing electrophoretic displays); *In re Putnam Publ’g Co.*, 39 USPQ2d 2021 (TTAB 1996) (FOOD & BEVERAGE ONLINE merely descriptive of news information services for the food processing industry); *In re Nat’l Shooting Sports Found., Inc.*, 219 USPQ 1018 (TTAB 1983) (SHOOTING, HUNTING, OUTDOOR TRADE SHOW AND CONFERENCE held descriptive name for conducting and arranging trade shows in the hunting, shooting and outdoor sports products field).

**B. THE “FANCY FRIES” MARK COMBINES TWO TERMS THAT RESULT IN A DISTINCT COMMERCIAL IMPRESSION AND THEREFORE CONSTITUTE A UNITARY MARK WITH RESPECT TO “FROZEN VEGETABLES.”**

Even if the TTAB were to determine that the individual terms in the “FANCY FRIES” mark are descriptive of Applicant’s frozen vegetables, the mark as a whole nonetheless creates a

distinct impression and constitutes a unitary mark with a unique and non-descriptive meaning. As TMEP §1209.03(d) states, “[A] mark comprising a combination of merely descriptive components is registrable if the combination of terms creates a unitary mark with a unique, non-descriptive meaning. . . .” Hence, even if the individual terms which make up the mark are merely descriptive, the commercial impression of a composite mark may nevertheless be suggestive or arbitrary. 2 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* § 11:26 at 11-56 (2008). When it happens that two or more merely descriptive terms are combined in a composite mark, the determination of whether the composite mark also has a merely descriptive significance turns on the question of whether the combination of terms evokes a new and unique commercial impression. TMEP §1209.03(d). Also, while the alliteration in the mark may not be sufficient by itself to find the mark distinctive, it does contribute to its distinctive character. *Cf. Safe-T Pacific Co. v. Nabisco, Inc.*, 204 USPQ 307 (TTAB 1979); *In re Joseph Bancroft & Sons Co.*, 129 USPQ 329 (TTAB 1961). Therefore, alliteration, while not necessarily conclusive, definitely weighs in favor of registrability. Finally, in making the determination of descriptiveness, any doubt must be resolved on behalf of the applicant. *See In re Aid Labs., Inc.*, 221 USPQ 1215 (TTAB 1983); *In re Conductive Sys., Inc.*, 220 USPQ 84 (TTAB 1983).

The “FANCY FRIES” mark creates a distinct commercial impression separate from the individual terms in at least two ways. First, the two terms consist of a catchy and unique alliteration. This is similar to *In re Kraft, Inc.*, 218 USPQ 571 (TTAB 1983), a case involving food products in which the TTAB concluded that the mark “LIGHT N’ LIVELY” was a unitary mark and therefore suggestive of reduced calorie mayonnaise. Likewise, in *In re Colonial Stores Inc.*, 394 F.2d 549, 157 USPQ 382 (CCPA 1968), another case involving the food industry, the

applicant applied for the mark “SUGAR & SPICE” in association with certain bakery goods containing the ingredients sugar and spice. The CCPA held that the mark “SUGAR & SPICE” was not merely descriptive of the goods, stating:

[T]he terms ‘sugar’ and ‘spice’ used individually are well known and well understood by the purchasing public. However, when combined and used on bakery goods, we think they may function as an indication of more than a mere description of the ingredients of the goods on which the mark is used and, on the record made below, are not ‘merely descriptive’ of such goods within the meaning of section 2.

*Id.*

Applicant’s “FANCY FRIES” mark constitutes a similar such mark, rising above any possible descriptiveness of the individual terms to fashion a distinct, unitary mark with a unique commercial impression. Just as “SUGAR & SPICE” conveys a different impression than “SUGAR” or “SPICE” taken separately, so too the mark “FANCY FRIES” conveys a different commercial impression than the terms “FANCY” or “FRIES” standing alone. Consequently, the Examining Attorney’s refusal is in error.

Second, when combined, the separate terms “FANCY” and “FRIES” create an incongruity which requires a multi-step reasoning process to resolve. As argued above, the term “FRIES” is typically associated with French fries, a common potato based product that is deep fried in grease, and not understood to be a staple of *haute cuisine*. Conversely, the term “FANCY” connotes lavish extravagance or sophisticated refinement, conjuring images of the aristocratic classes or the austere elite. The adjoining of a term which connotes a greasy, common food product with a term which connotes elegant refinement creates a mental incongruity, thus presenting a commercial impression which is distinct from either term by itself. A multi-step reasoning process must be employed to realize that there is something different about Applicant’s goods; they are not ordinary French fries. Presently, Applicant’s frozen

vegetable products include such items as battered green beans, portobello mushrooms, asparagus and battered eggplant, and not traditional “French fries.” Moreover, the logical discord is further heightened when the polyvalent nature of the term “FANCY” is taken into account, as argued above. Consequently, the joined terms “FANCY” and “FRIES” create an incongruity requiring a multi-step reasoning process to resolve, and thus the “FANCY FRIES” mark cannot be merely descriptive.

*Ad arguendo*, even if the Examining Attorney’s position (i.e., “FRIES” merely descriptively refers to any food product capable of being fried and “FANCY” merely descriptively refers to a quality classification system for food) were correct, the same incongruous impression would nonetheless result. Fried food is not typically associated with high quality foods, and thus the unitary “FANCY FRIES” mark creates a mental incongruity. Through a multi-step reasoning process, a customer in the relevant market would be forced to reconcile a common, greasy fried food with the term “FANCY.” Due to the cognitive dissonance induced by the combination of two terms, Applicant’s mark creates a commercial impression different than the individual terms construed independent from each other.

As a result of the above, under TMEP §1209.03(d) the “FANCY FRIES” mark comprises a combination of components creating a unitary mark with a unique, non-descriptive meaning which is entitled to protection. For these reasons, the Examining Attorney’s refusal is in error.

### **CONCLUSION**

In sum, Applicant’s mark, “FANCY FRIES,” is not merely descriptive of Applicant’s “frozen vegetables” because neither term is independently descriptive of Applicant’s goods. Further, when combined, the terms are also not descriptive of Applicant’s frozen vegetables.

Rather, the combination of terms constitutes a separate, alliterative, unitary mark with a distinct commercial impression which is protectable under the Lanham Act.

For the reasons set forth herein, Applicant thus submits that Applicant's "FANCY FRIES" mark is not merely descriptive. The TTAB is therefore respectfully requested to reverse the Examining Attorney's decision refusing registration.

Respectfully submitted,



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Attorney for Applicant

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,321,775

Registered Oct. 23, 2007

TRADEMARK  
PRINCIPAL REGISTER



CONAGRA FOODS LAMB WESTON, INC. (DE-  
LAWARE CORPORATION)  
8701 WEST GAGE BLVD.  
KENNEWICK, WA 993361034

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "FRIES", APART FROM THE  
MARK AS SHOWN.

FOR: FROZEN PROCESSED POTATOES AND  
FRENCH FRIED POTATOES, IN CLASS 29 (U.S.  
CL. 46).

SN 78-930,212, FILED 7-14-2006.

FIRST USE 8-0-2006; IN COMMERCE 9-0-2006.

MIDGE BUTLER, EXAMINING ATTORNEY

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,283,846

Registered Aug. 21, 2007

TRADEMARK  
PRINCIPAL REGISTER

FUN FRIES

KENOVER MARKETING CORP. (NEW YORK  
CORPORATION)

9 TWENTY-NINTH STREET

BROOKLYN, NY 11232

FOR: FRENCH FRIED POTATOES, IN CLASS 29  
(U.S. CL. 46).

FIRST USE 7-3-2006; IN COMMERCE 7-3-2006.

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

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "FRIES", APART FROM THE  
MARK AS SHOWN.

SN 78-809,967, FILED 2-8-2006.

LAURIE MAYES, EXAMINING ATTORNEY



Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,009,510

Registered Oct. 25, 2005

TRADEMARK  
PRINCIPAL REGISTER

**EASY FRIES**

PROMARK BRANDS INC. (IDAHO CORPORATION)

2541 NORTH STOKESBERRY PLACE, SUITE 100

MERIDIAN, ID 83642

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

FIRST USE 5-24-2004; IN COMMERCE 5-24-2004.

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

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE FRIES, APART FROM THE MARK AS SHOWN.

SN 78-350,002, FILED 1-9-2004.

TRACY FLETCHER, EXAMINING ATTORNEY

**Int. Cl.: 29**

**Prior U.S. Cl.: 46**

**United States Patent and Trademark Office**

**Reg. No. 3,220,999**

**Registered Mar. 27, 2007**

**TRADEMARK  
PRINCIPAL REGISTER**

**FREEDOM FRIES**

ROWLAND, NEAL (UNITED STATES INDIVIDUAL)  
3010 MANDY LANE  
MOREHEAD CITY, NC 28557

FOR: FRIED POTATOES, POTATO CRISPS, POTATO CHIPS, POTATO SNACK FOODS, FROZEN AND PROCESSED POTATOES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 2-12-2003; IN COMMERCE 2-12-2003.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE FRIES, APART FROM THE MARK AS SHOWN.

SER. NO. 76-495,776, FILED 3-11-2003.

GINNY ISAACSON, EXAMINING ATTORNEY