

ESTTA Tracking number: **ESTTA30254**

Filing date: **04/11/2005**

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	Shurfine Foods, Inc.
Granted to Date of previous extension	04/10/2005
Address	6700 S.W. Sandburg Street Tigard, OR 97223 UNITED STATES

Attorney information	Graciela G. Cowger Marger Johnson & McCollom, PC 1030 SW Morrison Street Portland, OR 97205 UNITED STATES docketing@techlaw.com, laura@techlaw.com, beth@techlaw.com, jbrown@seyfarth.com Phone:5032223613
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Applicant Information

Application No	78349624	Publication date	10/12/2004
Opposition Filing Date	04/11/2005	Opposition Period Ends	04/10/2005
Applicant	C.M. Products, Inc. (NV) 800 Ela Road		

Lake Zurich, IL 600472390 UNITED STATES

Goods/Services Affected by Opposition

Class 021. First Use: 19600000 First Use In Commerce: 19600000 All goods and services in the class are opposed, namely: metal bakeware

Attachments	Notice of Opposition.pdf (5 pages)
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Signature	/Graciela G. Cowger/
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Name	Graciela G. Cowger
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Date	04/11/2005
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No. 78/349,624
Filed: January 8, 2004
For the mark SURE-BAKE
Class: 021
Published in the Official Gazette on October 12, 2004

SHURFINE FOODS, INC.,)
)
Opposer,)
)
v.)
)
C.M. PRODUCTS, INC.,)
)
Applicant.)

NOTICE OF OPPOSITION

1. SHURFINE FOODS, INC., an Illinois corporation having its principal place of business at 6700 S.W. Sandburg Street, Tigard, Oregon 97223 (“Opposer”), believes that it is damaged by registration of the mark SURE-BAKE that is the subject of U.S. Trademark Application Serial No. 78/349,624 (“’624 application”) for metal bakeware by C.M. Products, Inc., a Nevada corporation having an address at 800 Ela Road, Lake Zurich, Illinois 60047-2390, (“Applicant”). The ’624 application was filed January 8, 2004 and published in the Official Gazette on January 8, 2004. Opposer opposes registration of the ’624 application.

As first grounds for opposition, Opposer alleges as follows:

2. Opposer owns numerous registrations for SHUR- prefix marks, i.e., U.S. Registration Nos. 2,710,943; 2,506,497; 2,425,809; 2,341,464; 2,285,574; 2,170,823; 1,965,622; 1,928,809; 1,916,702; 1,847,799; 1,820,916; 1,702,791; 1,691,599; 1,683,923; 1,134,376; 807,575; and 558,657 for the marks SHUR FINE and SHURFINE as service marks and trademarks for a variety of grocery and household products; U.S. Registration Nos. 2,153,416; 2,112,899; 1,546,999; and 770,099 for the mark SHUR VALU as a collective service mark and trademark for a variety of grocery and household products; U.S. Registration Nos. 2,276,332;

1,286,296; 1,152,556; 945,843; 786,505; 686,418; and 663,880 for the mark SHURFRESH for a variety of grocery products; U.S. Registration No. 2,314,177 for the mark SHURSAVE for retail grocery store services; U.S. Registration Nos. 1,737,906; 1,722,210; 1,711,996; 1,703,595; 1,445,491; 1,435,870; 1,435,869; 1,435,858; 1,435,514; 1,431,181; 1,430,811; and 1,237,527 for the mark SHUR SAVING for grocery and household products; U.S. Registration No. 2,222,998 for the mark SHUR TECH for various automotive maintenance products; U.S. Registration No. 2,506,498 for SHUR FINE CAFÉ for food services, namely, home meal replacement services consisting of the preparation and service of carryout, home-style meals; U.S. Registration No. 2,116,787 for the mark SHURFINE PAID CALL for prepaid long-distance telephone services; and U.S. Registration No. 2,775,641 for the mark SURECOMFORT for adult incontinence products, namely, diapers and incontinence garments.

3. Applicant's mark SURE-BAKE so resembles Opposer's registered SHUR FINE, SHURFINE, SHUR VALU, SHURFRESH, SHURSAVE, SHUR SAVING, SHURTECH, SHUR FINE CAFÉ, SHURFINE PAID CALL, and SURE COMFORT marks as to be likely, when used on or in connection with the goods or services of the Applicant, to cause confusion, mistake or deception.

As second, alternative, grounds for opposition, Opposer alleges as follows:

4. Opposer, since prior to Applicant's filing date, has used and not abandoned the marks SHUR FINE and SHURFINE as service marks, collective marks, and trademarks for a variety of grocery and household products sold in grocery, convenience, and drug stores.

5. Opposer, since prior to Applicant's filing date, has used and not abandoned the mark SHUR VALU for grocery products sold in grocery, convenience, and drug stores.

6. Opposer, since prior to Applicant's filing date, has used and not abandoned the SHURFRESH mark for grocery and household products sold in grocery, convenience, and drug stores.

7. Opposer, since prior to Applicant's filing date, has used and not abandoned the mark SHURSAVE for retail grocery store services.

8. Opposer, since prior to Applicant's filing date, has used and not abandoned the mark SHUR SAVING for grocery and household products sold in grocery, convenience, and drug stores.

9. Opposer, since prior to Applicant's filing date, has used and not abandoned the mark SHUR TECH for automotive products sold in grocery, convenience, and drug stores.

10. Opposer, since prior to Applicant's filing date, has used and not abandoned the mark SHUR FINE CAFÉ for restaurants, food services, namely home meal replacement services consisting of the preparation and service of carryout, home-style meals sold in grocery, convenience, and drug stores.

11. Opposer, since prior to Applicant's filing date, has used and not abandoned the mark SHURFINE PAID CALL for prepaid long-distance telephone services sold in grocery, convenience, and drug stores.

12. Opposer, since prior to Applicant's filing date, has used and not abandoned the mark SURECOMFORT for adult incontinence products, namely, diapers and incontinence garments

13. Applicant's mark SURE-BAKE so resembles Opposer's previously used marks SHUR FINE, SHURFINE, SHUR VALU, SHURFRESH, SHURSAVE, SHUR SAVING, SHURTECH, SHUR FINE CAFÉ, SHURFINE PAID CALL, and SURE COMFORT as to be likely, when used on or in connection with the goods or services of the Applicant, to cause confusion, mistake or deception.

As third, alternative, grounds for opposition, Opposer alleges as follows:

14. Opposer is the owner of a family of SHUR- prefixes marks including SHUR FINE, SHURFINE, SHUR VALU, SHURFRESH, SHURSAVE, SHUR SAVING, SHURTECH, SHUR FINE CAFÉ, SHURFINE PAID CALL, and SURE COMFORT.

15. Opposer, since prior to Applicant's filing date, has used and promoted its marks SHUR FINE, SHURFINE, SHUR VALU, SHURFRESH, SHURSAVE, SHUR SAVING, SHURTECH, SHUR FINE CAFÉ, SHURFINE PAID CALL, and SURE COMFORT as a family of marks.

16. Applicant's mark SURE-BAKE is so similar to Opposer's family of marks that, when used on or in connection with the goods or services of the Applicant, is likely to be perceived as another member of Opposer's family of marks, and is likely to cause confusion, mistake or deception.

As fourth, alternative, grounds for opposition, Opposer alleges as follows:

17. Opposer's marks SHUR FINE, SHURFINE, SHUR VALU, SHURFRESH, SHURSAVE, SHUR SAVING, SHURTECH, SHUR FINE CAFÉ, SHURFINE PAID CALL, and SURE COMFORT have become distinctive and famous within the meaning of Section 43(c) of the Lanham Act [15 U.S.C. Section 1125(c)].

18. Applicant's use and registration of the mark SURE-BAKE will cause dilution of the distinctive quality of Opposer's marks.

As fifth, alternative, grounds for opposition, Opposer alleges as follows:

19. Applicant's mark SURE-BAKE when used on or in connection with the goods of the Applicant is merely descriptive.

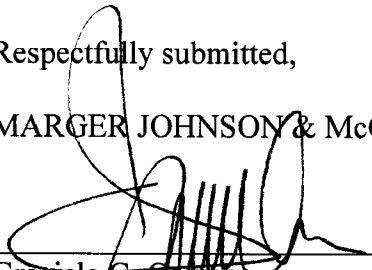
As a sixth, alternative, grounds for opposition, Opposer alleges as follows:

20. Applicant's mark SURE-BAKE when used on or in connection with the goods of the Applicant suggests a false connection with Opposer within the meaning of Section 2(a) of the Trademark Act [15 U.S.C. Section 1052(a)].

Opposer prays that this opposition is sustained and that registration to the Applicant is refused.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



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