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Filing date: **05/26/2005**

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

|                               |  |
|-------------------------------|--|
| <b>Proceeding</b>             | 91164907   |
| <b>Party</b>                  | Defendant<br>C.M. Products, Inc. (NV)<br>C.M. Products, Inc. (NV)<br>800 Ela Road<br>Lake Zurich, IL 600472390 |
| <b>Correspondence Address</b> | Jeffrey H. Brown<br>Seyfarth Shaw LLP<br>55 E. Monroe Street, Suite 4200<br>Chicago, IL 60603                  |
| <b>Submission</b>             | Answer   |
| <b>Filer's Name</b>           | Jeffrey H. Brown   |
| <b>Filer's e-mail</b>         | jbrown@seyfarth.com  |
| <b>Signature</b>              | /Jeffrey H. Brown/   |
| <b>Date</b>                   | 05/26/2005   |
| <b>Attachments</b>            | sure bake answer.pdf ( 7 pages )   |

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

|                           |   |                         |
|---------------------------|---|-------------------------|
| SHURFINE FOODS, INC.,     | ) |                         |
| Opposer,                  | ) |                         |
|                           | ) |                         |
| v.                        | ) |                         |
|                           | ) | Opposition No. 91164907 |
| C.M. PRODUCTS, INC. (NV), | ) |                         |
|                           | ) |                         |
| Respondent.               | ) |                         |
|                           | ) |                         |

ANSWER

Applicant, C.M. Products, Inc. (NV) (“C.M. Products” or “Applicant”), hereby answers the Notice of Opposition filed by Opposer, Shurfine Foods, Inc. (“Shurfine” or “Opposer”) as follows:

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.

ANSWER:

Applicant denies the allegations contained in paragraph 1 of the Notice of Opposition as they relate to C.M. Products, Inc. [sic]. Applicant admits that it is a Nevada corporation having an address at 800 Ela Road, Lake Zurich, Illinois 60047-2390 and that on January 8, 2004 it caused to be filed an application for registration of the mark SURE-BAKE for metal bakeware that is the subject of U.S. Trademark Application Serial No. 78/349,624 and that on October 12, 2004 the ‘624 application was published in the Official Gazette. Applicant admits that Opposer

opposes registration of the '624 application. Further answering, Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant denies the allegations contained in paragraph 3 of the Notice of Opposition.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 4 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 5 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition and therefore denies the same.

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

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 7 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 8 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 9 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 10 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 11 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 12 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant denies the allegations contained in paragraph 13 of the Notice of Opposition.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 14 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant is without knowledge or information to form a belief as to the truth of the allegations contained in paragraph 15 of the Notice of Opposition and therefore denies the same.

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.

ANSWER:

Applicant denies the allegations contained in paragraph 16 of the Notice of Opposition.

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)].

ANSWER:

Applicant denies the allegations contained in paragraph 17 of the Notice of Opposition.

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

ANSWER:

Applicant denies the allegations contained in paragraph 18 of the Notice of Opposition.

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

the Applicant is merely descriptive.

ANSWER:

Applicant denies the allegations contained in paragraph 19 of the Notice of Opposition.

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)].

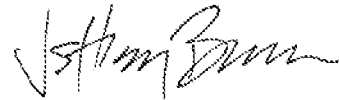
ANSWER:

Applicant denies the allegations contained in paragraph 20 of the Notice of Opposition.

WHEREFORE, Applicant C.M. Products, Inc. (NV) respectfully requests that Opposer's Notice of Opposition be dismissed and the certificate of registration for C.M. Products, Inc. (NV)'s application be issued.

Dated: May 26, 2005

C.M. PRODUCTS, INC. (NV)



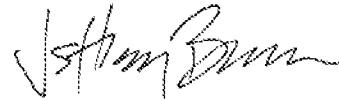
By: \_\_\_\_\_  
One of its attorneys

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Attorneys for Applicant

CERTIFICATE OF TRANSMISSION

I hereby certify that the foregoing Answer to Notice of Opposition was filed with the Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on May 26, 2005.



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Jeffrey H. Brown

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that, on May 26, 2005, a copy of the foregoing Answer to Notice of Opposition was served on Opposer by mailing a copy by first-class mail, postage prepaid in an envelope addressed to:

Graciela G. Cowger  
MARGER JOHNSON & McCOLLOM, P.C.  
1030 SW Morrison Street  
Portland, OR 97205



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Jeffrey H. Brown