

ESTTA Tracking number: **ESTTA56488**

Filing date: **12/07/2005**

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

Proceeding	91167423
Party	Defendant Coleson Foods, Inc. Coleson Foods, Inc. 1365 Garden of the Gods Road Suite 150 Colorado Springs, CO 80907
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Submission	Answer
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Date	12/07/2005
Attachments	Answer to Notice of Opposition.pdf ( 4 pages )

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

In the Matter of Application Serial No. 78/421,908  
For the Mark VERIFIABLY BETTER BEEF  
Published in the Official Gazette of April 12, 2005

CARGILL MEAT SOLUTIONS CORPORATION	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91167423
	)	
COLESON FOODS, INC.	)	
	)	
Applicant.	)	
	)	

Honorable Commissioner for Trademarks  
Alexandria, Virginia

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Coleson Foods, Inc., by and through its undersigned attorneys, by way of answer to the Notice of Opposition in the within matter by Opposer Cargill Meat Solutions Corporation, hereby states and alleges as follows:

1. Applicant admits that on April 22, 2003, the United States Patent & Trademark Office registered on the Principal Register and issued to Opposer Registration No. 2,709,783 for the mark VERIFIED TENDER in International Class 29. With respect to the balance of the allegations contained in Paragraph 1 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

2. Applicant admits that on April 27, 2004, the United States Patent & Trademark Office registered on the Principal Register and issued to Opposer Registration No. 2,837,315 for the mark TENDER VERIFIED in International Class 29. With respect to the balance of the allegations contained in Paragraph 2 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

3. Applicant admits that on April 16, 2001, Opposer filed with the United States Patent & Trademark Office an application to register the mark VERIFIED FRESH in International Class 29 for "Meat and meat products, namely, beef, pork, poultry, luncheon meats, hot dogs, ham, corned beef, bacon, chicken and turkey and that the application has been assigned Application Serial No. 76-241,500. With respect to the balance of the allegations contained in Paragraph 3 of

the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

4. With respect to the allegations contained in Paragraph 4 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

5. With respect to the allegations contained in Paragraph 5 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

6. With respect to the allegations contained in Paragraph 6 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

7. Applicant admits the allegations contained in Paragraph 7 of the Notice of Opposition.

8. Applicant admits the allegations contained in Paragraph 8 of the Notice of Opposition.

9. Applicant admits that Opposer has use of each of Opposer's VERIFIED Marks and registration of its VERIFIED TENDER and TENDER VERIFIED prior to May 19, 2004, Applicant's filing date of its intent-to-use application. With respect to the balance of the allegations contained in Paragraph 9 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

10. Applicant denies the allegations contained in Paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations contained in Paragraph 11 of the Notice of Opposition.

12. Applicant admits the allegations contained in Paragraph 12 of the Notice of Opposition.

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

14. Applicant denies the allegations contained in Paragraph 14 of the Notice of Opposition.

15. With respect to the allegations contained in Paragraph 15 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

16. With respect to the allegations contained in Paragraph 16 of the Notice of Opposition, Applicant is without sufficient information or knowledge to form a belief and therefore denies same and leaves Opposer to its strict proof.

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

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

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

20. Unless expressly admitted herein, Applicant denies all other allegations contained in the Notice of Opposition.

**BY WAY OF AFFIRMATIVE DEFENSES**

21. The Notice of Opposition fails to state a claim upon which relief can be granted as against Applicant.

22. The relief sought in the Notice of Opposition is barred by the doctrines of laches, waiver and/or estoppel.

WHEREFORE, Applicant Coleson Foods, Inc. respectfully requests that the Notice of Opposition to registration of the trademark VERIFIABLY BETTER BEEF in International Class 29 (Serial No. 78/421,908) filed by Opposer Cargill Meat Solutions Corporation be dismissed with prejudice and that Applicant be awarded such other relief as is deemed just and proper.

Dated: December 7, 2005

Respectfully submitted,

SPARKS WILLSON BORGES BRANDT  
& JOHNSON, P.C.



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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Answer to Notice of Opposition was served upon the following by placing same in the U.S. mail, first class mail, postage prepaid, this 7th day of December, 2005 addressed to:

Allen W. Hinderaker, Esq.  
William D. Schultz, Esq.  
Merchant & Gould P.C.  
PO Box 2910  
Minneapolis, MN 55402

  
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Kent H. Borges