

ESTTA Tracking number: **ESTTA75963**

Filing date: **04/12/2006**

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	ConAgra Brands, Inc.
Granted to Date of previous extension	04/12/2006
Address	One ConAgra Drive Omaha, NE 68102 UNITED STATES
Attorney information	Patrick C. Stephenson McGrath North Mullin & Kratz, PC LLO 1601 Dodge Street Suite 3700 Omaha, NE 68102 UNITED STATES pstephenson@mcgrathnorth.com Phone:(402) 341-3070

Applicant Information

Application No	78337608	Publication date	12/13/2005
Opposition Filing Date	04/12/2006	Opposition Period Ends	04/12/2006
Applicant	Candwich Food Corporation 10044 Stone Mountain Cove Sandy, UT 84092 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. All goods and services in the class are opposed, namely: Food items packaged in cans, namely, vegetable-based snack foods
Class 030. All goods and services in the class are opposed, namely: Food items packaged in cans, namely meat-based sandwiches, candy, popcorn, candy popcorn and dessert puddings

Attachments	Candwich.pdf (3 pages)
Signature	/Patrick C. Stephenson/
Name	Patrick C. Stephenson
Date	04/12/2006

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

IN THE MATTER OF APPLICATION SERIAL NO. 78/337,608
PUBLISHED IN THE OFFICIAL GAZETTE ON DECEMBER 13, 2005

CONAGRA BRANDS, INC.,)	OPPOSITION NO.: _____
)	
Opposer,)	
)	MARK: CANDWICH
v.)	
)	
CANDWICH FOOD CORPORATION,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

ConAgra Brands, Inc., a corporation organized and existing under the laws of the State of Nebraska, with offices located at One ConAgra Drive, Omaha, Nebraska 68102-5001, believes that it will be damaged by registration of the mark shown in Application Serial No. 78/337,608 and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Pursuant to Application Serial No. 78/337,608, filed December 8, 2003, Applicant seeks to register the mark CANDWICH as a trademark for "food items packaged in cans, namely vegetable-based snack foods" in International Class 29 and "food items packaged in cans, namely meat-based sandwiches, candy, popcorn, candy popcorn and dessert puddings" in International Class 30, claiming a bona fide intent to use the mark, as is evidenced by the publication of said mark in the December 13, 2005 issue of the Official Gazette.

2. Opposer is the owner of Registration No. 0,888,780, issued March 31, 1970, pursuant to Application Serial No. 72/326,099, filed May 1, 1969, for the trademark MANWICH as used on "sandwich sauce" in International Class 30.

3. Opposer is the owner of Registration No. 1,349,839, issued July 16, 1985, pursuant to Application Serial No. 73/501,676 filed October 1, 1984, for the trademark MANWICH as used on "spice and seasoning mixes for meat".

4. Opposer has used the trademark MANWICH in interstate commerce, through its licensees and predecessors in interest, since at least as early as February 28, 1969, and continues to use the trademark MANWICH in interstate commerce.

5. There is no issue as to priority. Registration Nos. 0,888,780 and 1,349,839 were issued well prior to the filing date of Application Serial No. 78/337,608.

6. By virtue of its efforts and the expenditure of considerable sums for promotional activities and by virtue of the excellence of its goods, Opposer has gained a valuable reputation for the trademark MANWICH and such trademark is famous.

7. A likelihood of confusion exists between Applicant's trademark CANDWICH and Opposer's trademark MANWICH.

8. If Applicant is permitted to use and register the trademark CANDWICH for use on food items packaged in cans, namely vegetable-based snack foods in International Class 29 and food items packaged in cans, namely meat-based sandwiches, candy, popcorn, candy popcorn and dessert puddings in International Class 30, such use and registration is likely to cause confusion and lead to deception as to the source, origin and/or sponsorship of the goods bearing Applicant's trademark, causing damage and injury to Opposer.

9. If Applicant is permitted to use and register the CANDWICH trademark for use on food items packaged in cans, namely vegetable-based snack foods in International Class 29 and food items packaged in cans, namely meat-based sandwiches, candy, popcorn, candy popcorn and dessert puddings in International Class 30, such use and registration is likely to dilute and/or damage the value, reputation and/or goodwill associated with Opposer's MANWICH trademark, causing damage and injury to Opposer.

10. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to use the CANDWICH trademark, causing damage and injury to Opposer.

WHEREFORE, Opposer prays that trademark application Serial No. 78/337,608 be rejected, and that the mark therein sought for the goods therein specified be denied and refused.

The statutory filing fee of three hundred dollars (\$300) per International Class is submitted herewith.

RESPECTFULLY SUBMITTED,

CONAGRA BRANDS, INC., Opposer

By: 

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ATTORNEYS FOR OPPOSER

Dated: April 12, 2006