

ESTTA Tracking number: **ESTTA205692**

Filing date: **04/17/2008**

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	Specialty Roast Coffee Company LLC
Granted to Date of previous extension	04/19/2008
Address	P.O. Box 50112 Bellevue, WA 98015 UNITED STATES

Attorney information	Marshall J. Nelson Davis Wright Tremaine LLP 1201 Third Avenue, Suite 2200 Seattle, WA 98101 UNITED STATES marshallnelson@dwt.com, kristinefyfe@dwt.com Phone:(206) 757-8112
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Applicant Information

Application No	77265713	Publication date	02/19/2008
Opposition Filing Date	04/17/2008	Opposition Period Ends	04/19/2008
Applicant	Kraft Foods Holdings, Inc. Three Lakes Drive Northfield, IL 60093 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Coffee

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77347541	Application Date	12/09/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BREW SOME GOOD		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 030. First use: First Use: 2006/11/30 First Use In Commerce: 2006/12/06 Coffee
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Attachments	77347541#TMSN.jpeg (1 page)(bytes) Notice of Opposition - 77265713.pdf (4 pages)(114326 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/marshallnelson/
Name	Marshall J. Nelson
Date	04/17/2008

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

Specialty Roast Coffee Company, LLC,

Opposer,

v.

Kraft Foods Holdings, Inc.,

Applicant.

Mark: IT'S A NEW MORNING, BREW
SOME GOOD

Serial No. 77265713

Opposition No. _____

NOTICE OF OPPOSITION

Specialty Roast Coffee Company, LLC (“Opposer”) is a Delaware limited liability company located in Bellevue, Washington. Since at least as early as November 30, 2006, Opposer has used the mark BREW SOME GOOD to market and sell Arabica, specialty-grade, roast coffee, and on December 9, 2007 filed an application to register BREW SOME GOOD for coffee, based on such use (Serial No. 77347541). On August 28, 2007, Kraft Foods Holdings, Inc. (“Applicant”) a Delaware corporation located in Northfield, Illinois, filed an application to register IT’S A NEW MORNING, BREW SOME GOOD for coffee, based on intent to use (Serial No. 77265713). Applicant’s application Ser. No. 77265713 has been cited by the examining attorney as a possible bar to registration of Opposer’s mark. Opposer believes that it would be damaged by registration of Applicant’s mark, and hereby opposes such registration.

The grounds for this opposition are as follows:

1. Applicant has filed the above-referenced intent-to-use application for the mark IT'S A NEW MORNING, BREW SOME GOOD in International Class 30 for coffee.

2. Opposer has been using the mark BREW SOME GOOD since at least as early as November 30, 2006, and in commerce since at least as early as December 6, 2006, for selling and marketing its specialty roast coffee.

3. Opposer's mark symbolizes goodwill and consumer recognition, which has been developed by Opposer through sales of goods associated with its mark, and through advertising and promotion of its mark in the United States.

4. As a result of Opposer's use and advertising of BREW SOME GOOD, the mark is well-known in the United States and is recognized as identifying Opposer's high-quality goods. The mark and the associated goodwill are valuable assets of Opposer.

5. The goods listed in Applicant's application, namely, coffee in International Class 30, are the same type as or so closely related to Opposer's goods sold and marketed in association with Opposer's BREW SOME GOOD mark, that a likelihood of confusion will result if the parties respective goods are sold under the same or similar marks.

6. In an Office Action in response to Opposer's December 9, 2007 application to register BREW SOME GOOD, the examining attorney noted such likelihood of confusion between Opposer's mark and Applicant's pending applications for the identical mark BREW SOME GOOD (Serial No. 77265713) and IT'S A NEW MORNING, BREW SOME GOOD (Serial No. 77265716).

7. Applicant's use of IT'S A NEW MORNING, BREW SOME GOOD for the goods specified in the application is likely to confuse and to deceive the public into the mistaken belief that the goods offered and advertised by Opposer under its mark BREW SOME GOOD are the same as Applicant's goods, or have their origin with, or are otherwise related to Applicant; or in the alternative, that the goods offered and advertised by Applicant have their origin with, or are approved, endorsed, or sponsored by, or are otherwise related to Opposer.

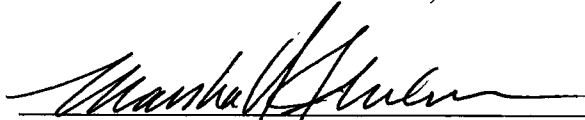
8. For the above reasons, Opposer's reputation for high-quality specialty-grade roast coffee and its valuable prior rights in BREW SOME GOOD and the attendant goodwill will be greatly damaged by registration of IT'S A NEW MORNING, BREW SOME GOOD for coffee in International Class 30.

WHEREFORE, Opposer prays that this Opposition be sustained and the application be denied and the mark be refused registration.

DATED this 17th day of April, 2008.

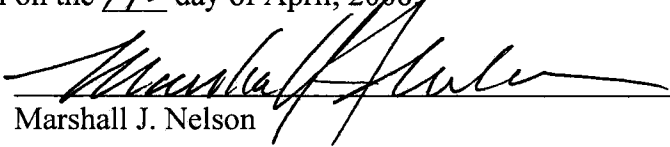
Respectfully submitted,

DAVIS WRIGHT TREMAINE, LLP



Marshall J. Nelson
Attorney for Opposer
1201 Third Avenue, Suite 2200
Seattle, WA 98101

I certify that a copy of this Notice of Opposition has been served upon the Applicant at its address of record by First Class Mail on the 17th day of April, 2008.



Marshall J. Nelson