

ESTTA Tracking number: **ESTTA291012**

Filing date: **06/22/2009**

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	Culhane Inc.
Granted to Date of previous extension	06/21/2009
Address	33633 Highway 550 North Durango, CO 81301 UNITED STATES

Attorney information	Sabrina C. Stavish, Sarah J. Miller Sheridan Ross P.C. 1560 Broadway, Suite 1200 Denver, CO 80202 UNITED STATES sstavish@sheridanross.com, smiller@sheridanross.com Phone:303-863-9700
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Applicant Information

Application No	77232065	Publication date	12/23/2008
Opposition Filing Date	06/22/2009	Opposition Period Ends	06/21/2009
Applicant	Honeyville Grain, Inc. 11600 Dayton Drive Rancho Cucamonga, CA 91730 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: quick cooking hot cereal

Grounds for Opposition

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

U.S. Application No.	77053166	Application Date	11/29/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HONEYVILLE		

Design Mark	HONEYVILLE		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1920/00/00 First Use In Commerce: 1920/00/00 Honey, fruit jellies, table and topping syrup, chocolate topping, mustard, barbecue sauce, teriyaki sauce and salad dressings		

U.S. Application No.	77975376	Application Date	11/29/2006
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HONEYVILLE		
Design Mark	HONEYVILLE		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1920/00/00 First Use In Commerce: 1920/00/00 Retail catalog ordering, retail online store services and retail stores in the field of food products, beverages and beauty products		

Related Proceedings	Cancellation No. 92049145
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Attachments	77053166#TMSN.jpeg (1 page)(bytes) 77975376#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (4 pages)(762494 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	/Sarah J. Miller/
Name	Sarah J. Miller
Date	06/22/2009

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

In the Matter of Trademark Application No. 77/232065
For the Mark "HONEYVILLE 4-GRAIN CEREALMATES"
Published in the Official Gazette On: December 3, 2008

Culhane Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Honeyville Grain, Inc.)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Culhane Inc, a Colorado corporation, having an address at 33633 Highway 550 North, Durango, Colorado 81301, believes it will be damaged by registration of the mark "HONEYVILLE 4-GRAIN CEREALMATES" for "quick cooking hot cereal" in Class 30 as shown in U.S. Trademark Application No. 77/232065 and hereby petitions to oppose the same.

As grounds for this Petition, Opposer alleges:

1. Opposer's filing of this Notice of Opposition is timely. U.S. Application Serial No. 77/232065 for the mark "HONEYVILLE 4-GRAIN CEREALMATES" published for opposition in the December 23, 2008 Trademark Office Official Gazette; Opposer filed a 90 Day Request for Extension of Time to Oppose on December 23, 2008 and then filed a 60 Day Request for Extension of Time to Oppose Upon Consent on April 20, 2009. As such, this document is being filed by the present deadline to oppose.

2. Opposer is the owner of rights in the mark “HONEYVILLE” in connection with food products and retail services, including the following U.S. trademark and service mark applications:

- a. U.S. Trademark Mark Application No. 77/053,166 for “HONEYVILLE” for “honey, fruit jellies, table and topping syrup, chocolate topping, mustard, barbecue sauce, teriyaki sauce and salad dressings” in Class 30; and
- b. U.S. Service Mark Application No. 77/975,376 for “HONEYVILLE” for “retail catalog ordering, retail online store services and retail stores in the field of food products, beverages and beauty products” in Class 35.

3. The “HONEYVILLE” mark has been used in commerce as a trademark and service mark by Opposer and/or its predecessor-in-interest since at least as early as 1920 in commerce in connection with honey and related retail and retail catalog sales services, and has been used as a trademark and service mark by Opposer and/or its predecessor-in-interest since at least as early as 1940 in connection with jams, jellies and sauces and related retail sales services.

4. The “HONEYVILLE” mark is currently in use by Opposer as a trademark and service mark in commerce in connection with honey, jams, jellies, chocolate toppings, spreads, condiments, dressings and sauces and retail sales services.

5. Opposer and its predecessor-in-interest have devoted substantial time, money and effort in establishing and maintaining a high standard of quality for all products and services sold under and in connection with the “HONEYVILLE” Mark. As a result, Opposer’s “HONEYVILLE” mark has become widely and favorably known to the relevant public. By virtue of the public’s recognition of Opposer’s “HONEYVILLE” mark, Opposer has developed substantial goodwill in the mark.

6. Upon information and belief, Honeyville Grain, Inc. is the owner of U.S. Trademark Application No. 77/232065 for “HONEYVILLE 4-GRAIN CEREALMATES” for “quick cooking hot cereal” in Class 30, the application for this registration being filed on July 17, 2007 on an intent-to-use basis. Upon information and belief, no amendment to allege use has been filed in the application.

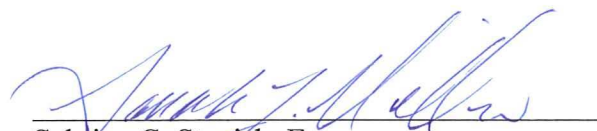
7. Upon information and belief, as a result of the public's association of "HONEYVILLE" with Opposer and Opposer's prior rights in the "HONEYVILLE" mark, Applicant's use and registration of the confusingly similar mark "HONEYVILLE 4-GRAIN CEREALMATES" in connection with the goods and services listed in U.S. Trademark Application Serial No. 77/232065, which are confusingly similar to Opposer's products and services, is likely to cause confusion, mistake or deception with Opposer's "HONEYVILLE" Mark.

8. If Applicant is permitted to register U.S. Trademark Application Serial No. 77/232065 for "HONEYVILLE 4-GRAIN CEREALMATES" despite this likelihood of confusion, Opposer's right to use of its "HONEYVILLE" mark will be impaired, and Opposer will be damaged.

WHEREFORE, Opposer prays that this Opposition be sustained and that the registration of U.S. Trademark Application No. 77/232065 for "HONEYVILLE 4-GRAIN CEREALMATES" be cancelled. The filing fee of \$300.00 is being submitted herewith. Please debit or credit any under or overpayment to our Deposit Account No. 19-1970.

Respectfully submitted,
SHERIDAN ROSS, P.C.

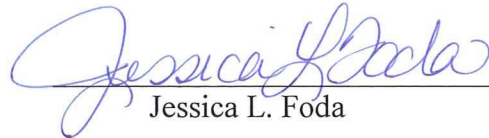
Date: June 22, 2009



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CERTIFICATE OF SERVICE

I, Jessica L. Foda, do hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was served by first class mail, postage prepaid, on the 22 day of June, 2009, upon the attorney/domestic representative for the Applicant:



Jessica L. Foda

Mr. Vic Y. Lin
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