

ESTTA Tracking number: **ESTTA369922**

Filing date: **09/23/2010**

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	Cornfields, Inc.
Granted to Date of previous extension	11/03/2010
Address	3898 Sunset Avenue Waukegan, IL 60087 UNITED STATES

Attorney information	Richard B. Biagi Neal & McDevitt, LLC 1776 Ash Street Northfield, IL 60093 UNITED STATES pto@nealmcdevitt.com
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Applicant Information

Application No	77936795	Publication date	07/06/2010
Opposition Filing Date	09/23/2010	Opposition Period Ends	11/03/2010
Applicant	Wells Street Popcorn LLC 5333 Birchwood Avenue Skokie, IL 60077 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Popcorn
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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. Registration No.	911254	Application Date	10/03/1969
Registration Date	04/13/1971	Foreign Priority Date	NONE
Word Mark	SKINNY		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class U046 (International Class 029, 030). First use: First Use: 1969/09/17 First Use In Commerce: 1969/09/17 FOOD PRODUCTS-NAMELY, SNACK CHIPS OF A CORN MEAL NATURE [, ONION DIP MIXES, AND CANDY]		
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U.S. Registration No.	3820740	Application Date	09/15/2009
Registration Date	07/20/2010	Foreign Priority Date	NONE
Word Mark	SKINNY STICKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1992/02/00 First Use In Commerce: 1992/04/00 Potato-based snack foods; Vegetable-based snack foods		

U.S. Application No.	77826841	Application Date	09/15/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SKINNY MINIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: Potato-based snack foods; Vegetable-based snack foods		

Attachments	77826529#TMSN.jpeg (1 page)(bytes) 77826841#TMSN.jpeg (1 page)(bytes) Notice of Opposition.SKINNYPOP.20100923.pdf (6 pages)(82649 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	/Richard B. Biagi/
Name	Richard B. Biagi
Date	09/23/2010

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

In the matter of Trademark Application No. 77/936,795
For the Mark SKINNYPOP – Int. Class 30
Filed on February 16, 2010
Published on July 6, 2010

_____)	
CORNFIELDS, INC.)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	
WELLS STREET)	
POPCORN, LLC)	
)	
Applicant.)	
)	
_____)	

NOTICE OF OPPOSITION

CORNFIELDS, INC. an Illinois corporation with its principal place of business at 3898 Sunset Avenue, Waukegan, Illinois 60087 (hereinafter “Opposer”), believes that it will be damaged by registration of the mark SKINNYPOP (U.S. Serial No. 77/936,795) and hereby opposes same.

Grounds for Opposer’s opposition to registration of the mark SKINNYPOP are as follows:

1. Opposer owns the following U.S. trademark registrations and pending applications (hereinafter collectively the SKINNY Marks):

Mark	Reg. No. / App. No.	Reg. Date	Goods
SKINNY	911,254	04/13/1971	Food products, namely snack chips of a corn meal nature
SKINNY STICKS	3,820,740	07/20/2010	Potato-based snack foods; Vegetable-based snack foods
SKINNY MINIS	77/826,841	n/a	Potato-based snack foods; Vegetable-based snack foods

2. According to the U.S. Patent and Trademark Office records, Applicant Wells Street Popcorn, LLC (hereinafter “Applicant”) is the owner of record of U.S. Trademark Application Serial No. 77/936,795 for the alleged mark SKINNYPOP (the “alleged SKINNYPOP Mark”) for popcorn (“Applicant’s Goods”) which was filed on February 16, 2010 and is based upon a bona fide intent to use pursuant to Section 1(b) of The Trademark Act, 15 U.S.C. 1051(b).

3. Opposer is using and has used, via a predecessor-in-interest, the SKINNY Marks since at least as early as 1969 in connection with snack food products, long prior to Applicant’s filing of the application to register the alleged SKINNYPOP Mark. Opposer’s products are marketed and sold nationally through various distribution channels. Opposer’s SKINNY Marks are well known throughout the U.S. and elsewhere.

4. Opposer has expended substantial resources to advertise and promote the sale of products under its SKINNY Marks.

5. Since long prior to Applicant’s filing of its application to register the alleged SKINNYPOP Mark, Opposer has used in interstate commerce its SKINNY Marks in connection with Opposer’s broad range of goods including, but not limited to, snack chips of a corn meal natures, potato-based snack foods, and vegetable-based snack foods (hereinafter “Opposer’s

Goods”).

6. By reason of Opposer’s advertisement, promotion, and use, Opposer’s SKINNY Marks have come to be recognized as signifying Opposer and Opposer’s Goods.

7. By virtue of Opposer’s extensive use and promotion of Opposer’s Marks, Opposer has established valuable and extensive goodwill in connection with the offering and sale of products under its SKINNY Marks, and the public has come to associate the SKINNY Marks with Opposer.

8. The goods associated with Opposer’s SKINNY Marks, namely snack chips of a corn meal nature, potato-based snack foods, and vegetable-based snack foods, and the goods associated with Applicant’s alleged SKINNYPOP Mark, namely popcorn, are similar.

9. Notwithstanding Opposer’s prior rights in and to its SKINNY Marks, Applicant filed an application, U.S. Serial No. 77/936,795, for registration of the alleged SKINNYPOP Mark, which Applicant allegedly intends to use in connection with “popcorn” in International Class 30. This application was published in the July 6, 2010 issue of the Official Gazette (Trademarks) of the United States Patent and Trademark Office, and Opposer was granted a time extension until November 7, 2010 to oppose.

10. As a result of the similarity between Opposer’s SKINNY Marks and Applicant’s proposed trademark SKINNYPOP, as well as the high degree of similarity between Opposer’s Goods and popcorn, Applicant’s alleged SKINNYPOP Mark is likely to cause confusion, deception, and mistake among purchasers as to the source, origin and/or sponsorship of the parties respective goods.

11. Applicant's proposed trademark SKINNYPOP dilutes the distinctive quality of Opposer's famous SKINNY Marks, and the proposed use and registration by Applicant of the proposed trademark SKINNYPOP is likely to cause dilution by blurring.

12. As a result of the allegations set forth above, Applicant's application to register and proposed use of the alleged SKINNYPOP Mark has and will continue to interfere with Opposer's SKINNY Marks, and will seriously damage Opposer, its business and its goodwill pursuant to §2(d) of the Lanham Act, 15 U.S.C. §1052(d).

13. If registration is issued for the alleged SKINNYPOP Mark, the registration would presumptively entitle Applicant to prima facie exclusive ownership and rights to the alleged SKINNYPOP Mark for popcorn. Registration of the alleged SKINNYPOP Mark would result in confusion among consumers as to the separate and distinct sources of Opposer's Goods and Applicant's Goods and the relative relationship between Opposer and Applicant, thereby damaging Opposer's goodwill in its SKINNY Marks, diluting the value thereof and resulting in irreparable harm to Opposer's business reputation, all to the detriment of Opposer who has expended considerable sums and efforts in promoting its SKINNY Marks.

WHEREFORE, Opposer respectfully prays that this opposition be sustained, that U.S. Trademark Application Serial No. 77/936,795 for the alleged SKINNYPOP Mark be rejected, and that registration by Applicant be denied.

Date: September 23, 2010

Respectfully submitted,

By: /s/ Richard B. Biagi

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Attorneys for Opposer,
Cornfields, Inc.

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Opposer, hereby certifies that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by deposit with the United States Postal Service, First Class, upon:

Susan Daly Stearns, Esq.
P.O. Box 215
Bend, Oregon 97709-0215

Attorney for Applicant

on this 23th day of September, 2010.

/s/ Richard B. Biagi

One of the Attorneys for Opposer