

ESTTA Tracking number: **ESTTA603586**

Filing date: **05/11/2014**

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	Tom Miles
Granted to Date of previous extension	05/11/2014
Address	20 LIBERTY BLVDSUITE 12A MALVERN, PA 19355 UNITED STATES
Attorney information	Luke Brean BreanLaw, LLC P.O. Box 4120, ECM #72065 PORTLAND, OR 97208 UNITED STATES luke@breanlaw.com Phone:503-854-4112

**Applicant Information**

Application No	85823549	Publication date	11/12/2013
Opposition Filing Date	05/11/2014	Opposition Period Ends	05/11/2014
Applicant	Continental Mills, Inc. 18100 Andover Park West Tukwila, WA 98188 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Organic and non-organic foods, namely, dehydrated fruit and fruit snacks; frozen vegetables; trail mix consisting primarily of processed nuts and dried fruit and also including blended yogurt chips; snack mix consisting of wasabi peas, processed nuts, processed edamame and also including sesame sticks; kale chips; trail mixes consisting primarily of processed nuts and dried fruit; trail mixes consisting primarily of processed nuts, dried fruit and also including chocolate; trail mixes consisting primarily of processed nuts and seeds; trail mixes consisting primarily of processed nuts and also including processed grains; trail mixes consisting primarily of processed nuts, dried fruit and also including confectionery items; trail mixes consisting primarily of processed nuts, dried fruit and also including coconut milk-based chips; snack mixes consisting of processed nuts and seeds; snack mixes consisting primarily of processed nuts and also including processed grains; snack mixes consisting of processed nuts and also including processed cereal; snack mixes consisting primarily of processed nuts and also including cereal-based snack foods; snack mix consisting of processed nuts, seeds, beans or legumes</p>
<p>Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cookies; crackers; prepackaged pasta; sauces, namely, salad dressings, barbequesauces, tomato sauces, pasta sauces andspaghetti sauces; corn chips; corn tortilla chips; corn chips containing whole grains and seeds; quinoa chips;</p>

wheat germ for human consumption; milled flax seed flour; processed cereal-based food to be used as a breakfast food; prepackaged brown rice; prepackaged couscous mix, consisting primarily of couscous, dried pasta, and also including processed garbanzo beans and quinoa; prepackaged, unpopped popcorn kernels

## 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/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	REAL FOOD ... FOR REALLY BUSY PEOPLE!		
Goods/Services	Organic and non-organic dried and processed foods, snacks, and energy snacks, primarily consisting of various mixtures of processed vegetables, fruits, nuts, hemp, chia, and other edible seeds, and secondarily grains, beans, cocoa beans, natural flavoring, herbs, and spices, primarily in the form of trail mixes, powdered foods, granulated foods, food bars, and cereals; Individually packaged and processed or dried foods and snacks, including primarily dried vegetables, fruits, nuts, nut butters, hemp, and edible seeds; Potato chips; Potatoes and other vegetables processed and cooked with coconut oil; Edible oils and fats; Coconut, soy and hemp powder for food or milk substitute beverages		

Attachments	NoticeOfOpposition2d-CommonLaw -- Tom Miles.pdf(288314 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	/LB/
Name	Luke Brean
Date	05/11/2014

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

In the matter of: U.S. Serial No. 85823549  
Date of filing: January 18, 2013  
Mark: REAL FOOD FOR REAL PEOPLE (and design)  
Date of Publication: November 12, 2013

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Tom Miles  
Opposer,

v.

Continental Mills, Inc.  
Applicant.

Mark: REAL FOOD FOR REAL PEOPLE (and design)

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UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Opposer, Tom Miles (hereinafter, "Opposer") is citizen of the state of Pennsylvania, with a principal place of business at 20 Liberty Blvd Ste A12, Malvern, PA 19355-1440. Tom Miles believes he will be damaged by the registration of U.S. Trademark Application Serial No. 85823549 for REAL FOOD FOR REAL PEOPLE (and design) covering "Organic and non-organic foods, namely, dehydrated fruit and fruit snacks; frozen vegetables; trail mix consisting primarily of processed nuts and dried fruit and also including blended yogurt chips; snack mix consisting of wasabi peas, processed nuts,

processed edamame and also including sesame sticks; kale chips; trail mixes consisting primarily of processed nuts and dried fruit; trail mixes consisting primarily of processed nuts, dried fruit and also including chocolate; trail mixes consisting primarily of processed nuts and seeds; trail mixes consisting primarily of processed nuts and also including processed grains; trail mixes consisting primarily of processed nuts, dried fruit and also including confectionery items; trail mixes consisting primarily of processed nuts, dried fruit and also including coconut milk-based chips; snack mixes consisting of processed nuts and seeds; snack mixes consisting primarily of processed nuts and also including processed grains; snack mixes consisting of processed nuts and also including processed cereal; snack mixes consisting primarily of processed nuts and also including cereal-based snack foods; snack mix consisting of processed nuts, seeds, beans or legumes,” in Class 029 and “Cookies; crackers; prepackaged pasta; sauces, namely, salad dressings, barbeque sauces, tomato sauces, pasta sauces and spaghetti sauces; corn chips; corn tortilla chips; corn chips containing whole grains and seeds; quinoa chips; wheat germ for human consumption; milled flax seed flour; processed cereal-based food to be used as a breakfast food; prepackaged brown rice; prepackaged couscous mix, consisting primarily of couscous, dried pasta, and also including processed garbanzo beans and quinoa; prepackaged, unpopped popcorn kernels” in Class 030.

As grounds in support for this opposition, Opposer alleges the following:

1. Opposer, for many years and since long prior to any date of first use upon which Applicant can rely, has adopted and continuously used the phrase REAL FOOD ... FOR REALLY BUSY PEOPLE! as a trademark in connection with “Organic and non-organic dried and processed foods, snacks, and energy snacks, primarily consisting of various mixtures of processed vegetables, fruits, nuts, hemp, chia, and other edible seeds, and secondarily grains, beans, cocoa beans, natural flavoring, herbs, and spices,

primarily in the form of trail mixes, powdered foods, granulated foods, food bars, and cereals; Individually packaged and processed or dried foods and snacks, including primarily dried vegetables, fruits, nuts, nut butters, hemp, and edible seeds; Potato chips; Potatoes and other vegetables processed and cooked with coconut oil; Edible oils and fats; Coconut, soy and hemp powder for food or milk substitute beverages.”

2. Opposer has significant common law interest and rights in and to the term REAL FOOD ... FOR REALLY BUSY PEOPLE! as trademark for “Organic and non-organic dried and processed foods, snacks, and energy snacks, primarily consisting of various mixtures of processed vegetables, fruits, nuts, hemp, chia, and other edible seeds, and secondarily grains, beans, cocoa beans, natural flavoring, herbs, and spices, primarily in the form of trail mixes, powdered foods, granulated foods, food bars, and cereals; Individually packaged and processed or dried foods and snacks, including primarily dried vegetables, fruits, nuts, nut butters, hemp, and edible seeds; Potato chips; Potatoes and other vegetables processed and cooked with coconut oil; Edible oils and fats; Coconut, soy and hemp powder for food or milk substitute beverages,” which has been in use by Opposer in interstate commerce since at least as early as 2011.

3. Applicant’s REAL FOOD FOR REAL PEOPLE (and design) mark so resembles Opposer’s previously used REAL FOOD ... FOR REALLY BUSY PEOPLE! mark as to be likely, when applied to the goods set forth in Class 029 and 030 in Applicant’s application, to cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act.

4. In addition, if Applicant’s REAL FOOD FOR REAL PEOPLE (and design) application in Class 029

and 030 matures to registration, Opposer believes it will be damaged in that, any subsequent application(s) by Opposer for federal trademark registration of REAL FOOD ... FOR REALLY BUSY PEOPLE! for “Organic and non-organic dried and processed foods, snacks, and energy snacks, primarily consisting of various mixtures of processed vegetables, fruits, nuts, hemp, chia, and other edible seeds, and secondarily grains, beans, cocoa beans, natural flavoring, herbs, and spices, primarily in the form of trail mixes, powdered foods, granulated foods, food bars, and cereals; Individually packaged and processed or dried foods and snacks, including primarily dried vegetables, fruits, nuts, nut butters, hemp, and edible seeds; Potato chips; Potatoes and other vegetables processed and cooked with coconut oil; Edible oils and fats; Coconut, soy and hemp powder for food or milk substitute beverages” or similar food and beverage products are likely to be refused by the Trademark Office due to the similarity of the marks and the relatedness of the respective parties’ goods and services.

5. Given Opposer’s longstanding and prior trademark rights in and to the REAL FOOD ... FOR REALLY BUSY PEOPLE! mark in relation to “Organic and non-organic dried and processed foods, snacks, and energy snacks, primarily consisting of various mixtures of processed vegetables, fruits, nuts, hemp, chia, and other edible seeds, and secondarily grains, beans, cocoa beans, natural flavoring, herbs, and spices, primarily in the form of trail mixes, powdered foods, granulated foods, food bars, and cereals; Individually packaged and processed or dried foods and snacks, including primarily dried vegetables, fruits, nuts, nut butters, hemp, and edible seeds; Potato chips; Potatoes and other vegetables processed and cooked with coconut oil; Edible oils and fats; Coconut, soy and hemp powder for food or milk substitute beverages,” any federal trademark registration for REAL FOOD FOR REAL PEOPLE (and design), conferring exclusive, nationwide rights, would be improper and would interfere with Opposer’s prior rights.

WHEREFORE, Opposer prays that the opposition be sustained and that registration of the REAL FOOD FOR REAL PEOPLE (and design) mark in Class 029 and 030 be refused.

Dated: May 11, 2014

Respectfully submitted,

**/LB/**

Luke Brean

BreanLaw, LLC  
P.O. Box 4120  
ECM #72065  
Portland, Oregon 97208

[luke@breanlaw.com](mailto:luke@breanlaw.com)  
800-451-5815  
Attorney for Opposer

## CERTIFICATE OF SERVICE

This is to certify that a copy of this NOTICE OF OPPOSITION, is being deposited with the U.S. Postal Service on May 11, 2014 by first-class mail, postage prepaid to the counsel of record in an envelope addressed as follows:

GRACE HAN STANTON  
PERKINS COIE LLP  
1201 3RD AVE STE 4900  
SEATTLE, WASHINGTON 98101-3099

**/LB/**

Luke Brean

BreanLaw, LLC  
P.O. Box 4120  
ECM #72065  
Portland, Oregon 97208

[luke@breanlaw.com](mailto:luke@breanlaw.com)  
800-451-5815

Attorney for Opposer



Generated on: This page was generated by TSDR on 2014-05-11 14:35:25 EDT

Mark: REAL FOOD FOR REAL PEOPLE



US Serial Number: 85823549

Application Filing Date: Jan. 15, 2013

Register: Principal

Mark Type: Trademark

Status: A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Dec. 05, 2013

Publication Date: Nov. 12, 2013

## Mark Information

Mark Literal Elements: REAL FOOD FOR REAL PEOPLE

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the stylized words "REAL FOOD FOR REAL PEOPLE." with an image of a bird facing the wording to the right of the wording.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Design Search Code(s): 03.15.25 - Cardinals; Crows; Doves; Woodpeckers; Pigeons; Ravens; Robins; Other birds

## Related Properties Information

Claimed Ownership of US Registrations: 4298978

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "\*" identify additional (new) wording in the goods/services.

**For:** Organic and non-organic foods, namely, dehydrated fruit and fruit snacks; frozen vegetables; trail mix consisting primarily of processed nuts and dried fruit and also including blended yogurt chips; snack mix consisting of wasabi peas, processed nuts, processed edamame and also including sesame sticks; kale chips; trail mixes consisting primarily of processed nuts and dried fruit; trail mixes consisting primarily of processed nuts, dried fruit and also including chocolate; trail mixes consisting primarily of processed nuts and seeds; trail mixes consisting primarily of processed nuts and also including processed grains; trail mixes consisting primarily of processed nuts, dried fruit and also including confectionery items; trail mixes consisting primarily of processed nuts, dried fruit and also including coconut milk-based chips; snack mixes consisting of processed nuts and seeds; snack mixes consisting primarily of processed nuts and also including processed grains; snack mixes consisting of processed nuts and also including processed cereal; snack mixes consisting primarily of processed nuts and also including cereal-based snack foods; snack mix consisting of processed nuts, seeds, beans or legumes

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(b)

**For:** Cookies; crackers; prepackaged pasta; sauces, namely, salad dressings, barbeque sauces, tomato sauces, pasta sauces and spaghetti sauces; corn chips; corn tortilla chips; corn chips containing whole grains and seeds; quinoa chips; wheat germ for human consumption; milled flax seed flour; processed cereal-based food to be used as a breakfast food; prepackaged brown rice; prepackaged couscous mix, consisting primarily of couscous, dried pasta, and also including processed garbanzo beans and quinoa; prepackaged, unpopped popcorn kernels

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(b)

## Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No  
Filed 66A: No  
Filed No Basis: No

Currently 44E: No  
Currently 66A: No  
Currently No Basis: No

Amended 44E: No

## Current Owner(s) Information

**Owner Name:** Continental Mills, Inc.  
**Owner Address:** 18100 Andover Park West  
Tukwila, WASHINGTON 98188  
UNITED STATES  
**Legal Entity Type:** CORPORATION  
**State or Country Where Organized:** WASHINGTON

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Grace Han Stanton  
**Attorney Primary Email Address:** [pctrademarks@perkinscoie.com](mailto:pctrademarks@perkinscoie.com)  
**Docket Number:** 00481.4000.0  
**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** GRACE HAN STANTON  
PERKINS COIE LLP  
1201 3RD AVE STE 4900  
SEATTLE, WASHINGTON 98101-3099  
UNITED STATES  
**Phone:** 206-359-8000  
**Correspondent e-mail:** [pctrademarks@perkinscoie.com](mailto:pctrademarks@perkinscoie.com)  
**Fax:** 206-359-9000  
**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Dec. 05, 2013	EXTENSION OF TIME TO OPPOSE RECEIVED	
Nov. 12, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Nov. 12, 2013	PUBLISHED FOR OPPOSITION	
Oct. 23, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Oct. 08, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
Oct. 08, 2013	ASSIGNED TO LIE	68171
Sep. 25, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 25, 2013	EXAMINER'S AMENDMENT ENTERED	88888
Sep. 25, 2013	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Sep. 25, 2013	EXAMINERS AMENDMENT E-MAILED	6328
Sep. 25, 2013	EXAMINERS AMENDMENT -WRITTEN	77301
Aug. 27, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Aug. 26, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Aug. 26, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 02, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 02, 2013	NON-FINAL ACTION E-MAILED	6325
Mar. 02, 2013	NON-FINAL ACTION WRITTEN	77301
Mar. 02, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 02, 2013	NON-FINAL ACTION E-MAILED	6325
Mar. 02, 2013	NON-FINAL ACTION WRITTEN	77301
Feb. 23, 2013	ASSIGNED TO EXAMINER	77301
Jan. 23, 2013	NOTICE OF DESIGN SEARCH CODE MAILED	
Jan. 22, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 18, 2013	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information

TM Attorney: ELTON, DAVID JONATHAN

Law Office Assigned: LAW OFFICE 106

### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Oct. 08, 2013

## Proceedings

### Summary

Number of Proceedings: 1

### Type of Proceeding: Extension of Time

Proceeding Number: [85823549](#)

Filing Date: Dec 05, 2013

Status: Not Instituted

Status Date: Dec 05, 2013

Interlocutory Attorney:

### Defendant

Name: Continental Mills, Inc.

Correspondent Address: GRACE HAN STANTON  
PERKINS COIE LLP  
1201 3RD AVE STE 4900  
SEATTLE WA , 98101-3099  
UNITED STATES

Correspondent e-mail: [pctrademarks@perkinscoie.com](mailto:pctrademarks@perkinscoie.com)

### Associated marks

Mark	Application Status	Serial Number	Registration Number
REAL FOOD FOR REAL PEOPLE	Request For Extension of Time to File Opposition	<a href="#">85823549</a>	

### Potential Opposer(s)

Name: Tom Miles

Correspondent Address: TOM MILES  
20 LIBERTY BLVD, SUITE 12A  
MALVERN PA , 19355  
UNITED STATES

Correspondent e-mail: [tommiles.nrgdr@gmail.com](mailto:tommiles.nrgdr@gmail.com)

### Prosecution History

Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED	Dec 05, 2013	
2	EXT GRANTED	Dec 06, 2013	
3	INCOMING - EXT TIME TO OPPOSE FILED	Mar 10, 2014	
4	EXTENSION OF TIME GRANTED	Mar 10, 2014	

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

In the matter of: U.S. Serial No. 85823549  
Date of filing: January 18, 2013  
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Tom Miles  
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Mark: REAL FOOD FOR REAL PEOPLE (and design)

Continental Mills, Inc.  
Applicant.

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UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF APPEARANCE**

Please enter the appearance of Luke Brean of BreanLaw, LLC at P.O. Box 4120, ECM #72065, Portland, Oregon 97208 , as counsel for the Opposer, Tom Miles, in the above-captioned matter.

Dated: May 11, 2014

Respectfully submitted,

**/LB/**

Luke Brean

BreanLaw, LLC  
P.O. Box 4120  
ECM #72065  
Portland, Oregon 97208

[luke@breanlaw.com](mailto:luke@breanlaw.com)  
800-451-5815  
Attorney for Opposer

## CERTIFICATE OF SERVICE

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GRACE HAN STANTON  
PERKINS COIE LLP  
1201 3RD AVE STE 4900  
SEATTLE, WASHINGTON 98101-3099

**/LB/**

Luke Brean

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P.O. Box 4120  
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Portland, Oregon 97208

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800-451-5815

Attorney for Opposer