

ESTTA Tracking number: **ESTTA679260**

Filing date: **06/20/2015**

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	Omega Farms, Inc.
Granted to Date of previous extension	06/20/2015
Address	21090 Cabot Blvd Hayward, CA 94545 UNITED STATES

Attorney information	Donald L. Bartels Bartels Law Group P.O. Box 1999 Burlingame, CA 94011 UNITED STATES dbartels@bartelsiplaw.com Phone:650-477-2950
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Applicant Information

Application No	85518752	Publication date	04/21/2015
Opposition Filing Date	06/20/2015	Opposition Period Ends	06/20/2015
Applicants	OMEGA VALLEY FARMERS, LLC 100 Parkside Drive Dorchester, WI 54425 UNITED STATES AGRICULTURAL OMEGA SOLUTIONS, LLC 2020 N. 53rd Street Milwaukee, WI 53208 UNITED STATES		

Goods/Services Affected by Opposition


Class 029. First Use: 0 First Use In Commerce: 0 Opposed goods and services in the class: dairy products, namely, milk, buttermilk, non-alcoholic egg nog, half and half, whipping cream, yogurt, drinkable yogurt, butter, sour cream, dry buttermilk powder, dry milk powder, cheese, cream cheese, and cottage cheese; all of the foregoing containing omega acids
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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. Application	86318628	Application Date	06/24/2014
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OMEGA FARMS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2006/03/13 First Use In Commerce: 2006/03/13 Dairy products excluding ice cream, icemilk, and frozen yogurt		

U.S. Application No.	86318640	Application Date	06/24/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OMEGA FARMS		
Design Mark			
Description of Mark	<p>The mark consists of a rectangular background containing a farm scene with a wave on the left side, a barn on the rightside, and a cow wearing a cowbell in the center and a banner containing the wording "OMEGA FARMS" below the cow. The color black appears in the outlining of the cow, the outline of the rectangular background, the barn window, barn roof andthe door of the barn. The color white appears in the cow, the birds and the wording "OMEGA FARMS". The color green appears in the border of the rectangular background, the field</p>		

	and the banner. The color blue appears in the sky and the wave. The color red appears in the barn. The color yellow appears in the cowbell.
Goods/Services	Class 029. First use: First Use: 2006/03/13 First Use In Commerce: 2006/03/13 Dairy products excluding ice cream, icemilk, and frozen yogurt

Attachments	86318628#TMSN.png(bytes) 86318640#TMSN.png(bytes) Opposer_Pleading_OMEGA_VALLEY_FARMERS.pdf(220076 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	/donald l. bartels/
Name	Donald L. Bartels
Date	06/20/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK TRIAL AND APPEAL BOARD

Applicants: Omega Valley Farmers, LLC
Agricultural Omega solutions, LLC
Serial No.: 85/518,752
Filed: January 18, 2012
For: OMEGA VALLEY FARMERS
Published: April 21, 2015

United States Patent and Trademark Office
Trademark trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

The Opposer, Omega Farms, Inc. (hereinafter "Omega Farms") through its attorneys believes that it will be damaged by the registration of the mark shown in the above-identified application, and hereby opposes same, pursuant to 15 USC §1063 and 37 CFR §2.104.

As grounds for opposition, it is alleged that:

1) Omega Farms is and has been engaged in the sale and marketing of highly related goods to those recited by Applicants in their application to register since a time well prior to the filing date of Applicants' intent-to-use registration application under Section 1(b) of the Trademark Act, January 18, 2012.

2) Omega Farms is and has been engaged in the sale and marketing of goods in various classes under the trademark OMEGA FARMS since as early as 2006. Omega Farms has sold goods under its OMEGA FARMS trademark since that time.

3) Omega Farms was the owner of a prior registration of the OMEGA FARMS trademark in Class 29 for use on dairy products, registration number 3,529,330, which has since lapsed, and prior registration of the OMEGA FARMS logo trademark in Class 29 for use on dairy products, registration number 3,283,104, which has since lapsed. Applicants' application Serial No. 85/518,752 was rejected on likelihood of confusion grounds based on the existence of these two prior registrations. On information and belief, Applicants' application was allowed only after the registrations of the OMEGA FARMS word and logo marks lapsed.

4) Omega Farms has since applied to reregister the OMEGA FARMS and OMEGA FARMS logo trademarks. These are pending application Serial Nos. 86/318,628 and 86/318,640. Both of these registration applications have been suspended pending the disposition of Applicants' application Serial No. 85/518,752, the application that is the subject of this Opposition. Omega Farms therefore has a reasonable belief that its registration of the OMEGA FARMS and OMEGA FARMS logo trademarks will be refused should the OMEGA VALLEY FARMERS trademark proceed to registration.

5) Omega Farms submits that Applicants' use and registration of the mark OMEGA VALLEY FARMERS on dairy products is likely to cause confusion, or to cause mistake or to deceive in violation of 15 USC §1052(d) to the damage of Omega Farms in the sale and marketing of dairy products marked with the OMEGA FARMS word and logo trademarks.

OPPOSER, Omega Farms, prays that this application Serial No. 85/518,752 be refused, that no registration be issued thereon to Applicants and that the Opposition be sustained in favor of Omega Farms.

Respectfully submitted,
Omega Farms, Inc.



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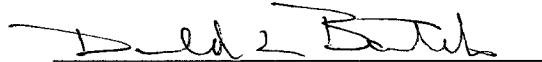
Date: June 20, 2015

COUNSEL FOR OPPOSER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 20, 2015, a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by United States first class mail, postage prepaid, on counsel for Applicant:

Joseph S. Heino, Esq.
Davis & Kuelthau, S.C.
111 E. Kilbourn Avenue, Ste 1400
Milwaukee, WI 53202

A handwritten signature in black ink, appearing to read "Donald L. Bartels", written over a horizontal line.

Donald L. Bartels