

ESTTA Tracking number: **ESTTA248855**

Filing date: **11/13/2008**

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	Shurfine Foods, Inc.		
Entity	Corporation	Citizenship	Illinois
Address	6700 SW Sandburg Street Tigard, OR 97223 UNITED STATES		

Attorney information	Hillary A. Brooks Marger, Johnson & McCollom, P.C. 210 SW Morrison St., Ste. 400 Portland, OR 97204 UNITED STATES litigationdocketing@techlaw.com, hillary@techlaw.com, laura@techlaw.com Phone:(503) 222-3613		
----------------------	--	--	--

**Applicant Information**

Application No	77485929	Publication date	10/28/2008
Opposition Filing Date	11/13/2008	Opposition Period Ends	11/27/2008
Applicant	Smitty's Supply, Inc. P.O. Box 530 63399 Highway 51 N. Roseland, LA 70456 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 004. First Use: 1998/06/05 First Use In Commerce: 1998/06/05 All goods and services in the class are opposed, namely: automotive fluids, namely, motor oils, hydraulic oils and gear lubricants
--

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
Dilution	Trademark Act section 43(c)
Other	Likelihood of confusion with Opposer's family of marks.

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2710943	Application Date	02/15/2002
Registration Date	04/29/2003	Foreign Priority Date	NONE

Word Mark	SHURFINE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1932/12/31 First Use In Commerce: 1932/12/31 Canned vegetables, canned vegetables for babies, canned fish, canned shellfish, canned chili con carne, peanut butter, evaporated milk, canned shoestring potatoes, pork and beans, tomato puree, canned pimientos, canned mushrooms, processed and canned olives, pickles, olive oil, sandwich spread, namely, meat-based and vegetable spreads, and canned cocoanut Class 030. First use: First Use: 1932/12/31 First Use In Commerce: 1932/12/31 Table syrups, honey, prepared spaghetti, tomato sauce, spaghetti sauce, prepared mustard, vinegar, tomato catsup, chili sauce, French dressing, salad dressing, mayonnaise, chili powder, spices, salt, coffee, tea, cornstarch, brown bread, macaroni, noodles, vermicelli, spaghetti, baking chocolate, baking powder, breakfast cereals, cake flour, pancake flour and biscuit flour Class 032. First use: First Use: 1932/12/31 First Use In Commerce: 1932/12/31 Canned vegetable juices

U.S. Registration No.	2506497	Application Date	11/22/2000
Registration Date	11/13/2001	Foreign Priority Date	NONE
Word Mark	SHUR FINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1995/11/00 First Use In Commerce: 1995/11/00 Restaurants; food services, namely, home meal replacement services consisting of the preparation and service of carryout, home-style meals		

U.S. Registration No.	2425809	Application Date	05/13/1999
Registration Date	01/30/2001	Foreign Priority Date	NONE
Word Mark	SHURFINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1999/07/27 First Use In Commerce: 1999/07/27 fresh meat, namely beef		

U.S. Registration No.	2341464	Application Date	07/13/1999
Registration Date	04/11/2000	Foreign Priority Date	NONE
Word Mark	SHURFINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00		

	telephone calling card services		
U.S. Registration No.	2285574	Application Date	11/18/1998
Registration Date	10/12/1999	Foreign Priority Date	NONE
Word Mark	SHURFINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 1998/03/01 First Use In Commerce: 1998/03/01 Fresh fruits and vegetables		

U.S. Registration No.	2170823	Application Date	11/06/1996
Registration Date	07/07/1998	Foreign Priority Date	NONE
Word Mark	SHUR FINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 001. First use: First Use: 1986/05/21 First Use In Commerce: 1986/05/21 [ automotive maintenance products, namely, antifreeze, windshield washer solvent, power steering fluid, brake fluid ] ; rock salt for deicing and ice cream making, water softener salt [ , unexposed photographic film ]</p> <p>Class 003. First use: First Use: 1989/04/30 First Use In Commerce: 1989/04/30 household cleaning preparations, namely, [ abrasive household cleanser, ] all-purpose household cleaners, [ floor wax, ] furniture polish, toilet bowl cleaners, [ carpet cleaner, ] bathroom cleaner, fabric softener sheets, dish washing detergent, laundry detergent, stain removers, drain openers; [ hair care preparations, namely, hair gel, hair spray, hair waving preparations; baby care products, namely, baby lotion, baby bath, ] baby towelettes; [ personal hygiene products, namely, cotton swabs, cotton balls and cotton sticks for cosmetic purposes, hydrogen peroxide for use on hair, denture cleaning preparations, bubble bath, ] bar soap [ , personal deodorants, antiperspirants , skin cream; sunscreen preparations, non-medicated lip balm, automobile cleaning preparations ]</p> <p>Class 004. First use: First Use: 1994/09/30 First Use In Commerce: 1994/09/30 [ fireplace logs, motor oil, carnauba wax ]</p> <p>Class 005. First use: First Use: 1995/09/26 First Use In Commerce: 1995/09/26 [over-the-counter medications, namely, appetite suppressants, travel sickness tablets, sleeping pills/tablets, laxatives, calamine lotion, acne medications, antibiotic ointment, antibiotic cream, menthol chest rub, hydrocortisone cream, topical gel for medical and therapeutic use, topical ointments and topical creams for antibiotic, anti-inflammatory, antiseptic and anesthetic use, antacids, decongestants, antihistamines, cough drops, cold medications, influenza medications, allergy medications, throat spray, cough syrup, throat lozenges, nasal spray, oral analgesics, diarrhea medications, hemorrhoidal medications, diaper rash ointment; feminine hygiene products, namely, douches, sanitary napkins, sanitary pads, tampons, panty liners, panty shields; first aid products, namely, adhesive bandages, medical adhesive tape, gauze, cotton balls, cotton swabs and cotton sticks for medical purposes; pharmaceutical preparations, namely, alcohol for topical use, hydrogen peroxide for medical use, epsom salts,</p>		

witch hazel, boric acid for antiseptic use; eye care products, namely, eye drops, contact lens cleaning solutions, contact lens saline solutions; foot care products, namely, corn pads, callous pads; bunion pads; ] household disinfectants, carpet deodorizers, air fresheners, [ domestic pesticides], incontinence garments, incontinence pads [ , medicated sunburn preparations, medicated lip balm , nutritional supplements, mineral supplements, mineral oil for medical and therapeutic use ]

Class 008. First use: First Use: 1984/12/31 First Use In Commerce: 1984/12/31 [ cosmetic implements, namely, tweezers, manicure sets, nail clippers, scissors, eyelash curlers, nail files; shaving implements, namely, razor blades, razors ]

Class 009. First use: First Use: 1992/04/30 First Use In Commerce: 1992/04/30 batteries, single use cameras, [ blank video tapes ]

Class 010. First use: First Use: 1994/05/04 First Use In Commerce: 1994/05/04 [thermometers for medical use ]

Class 011. First use: First Use: 1990/07/31 First Use In Commerce: 1990/07/31 [ light bulbs ]

Class 016. First use: First Use: 1985/05/31 First Use In Commerce: 1985/05/31 [ adhesive tapes for stationary or household use, glue for stationary or household use ], paper filters for coffee makers, paper baking cups, disposable diapers, plastic food storage bags for household use [ , litter box liners in the form of plastic bags ]

Class 017. First use: First Use: 1993/02/28 First Use In Commerce: 1993/02/28 strapping tape

Class 018. First use: First Use: 1991/06/01 First Use In Commerce: 1991/06/01 [ rawhide chews for dogs, tote bags ]

Class 020. First use: First Use: 1992/01/31 First Use In Commerce: 1992/01/31 [ drinking straws ]

Class 021. First use: First Use: 1990/04/30 First Use In Commerce: 1990/04/30 [ cleaning implements, namely, steel wool soap pads, scouring sponges and pads, mops, mop refills, brooms, dust pans; hair care implements, namely, hair brushes, hair combs; household gloves, household rubber gloves, plastic flatware, plastic plates, plastic bowls and cups, paper plates, paper bowls and cups, disposable aluminum cookware , loofah sponges, makeup sponges, eyelash brushes, dental floss ]

Class 025. First use: First Use: 1992/04/10 First Use In Commerce: 1992/04/10 [ driving gloves, head bands, shower caps, insoles ]

Class 026. First use: First Use: 1992/05/01 First Use In Commerce: 1992/05/01 [ hair implements, namely, non-electric hair curlers, barrettes, hair pins, hair ornaments, hair nets, hair bands, hair clips, hair picks ]

Class 028. First use: First Use: 1992/02/29 First Use In Commerce: 1992/02/29 [ cat toys, dog toys, athletic tape ]

Class 029. First use: First Use: 1987/05/05 First Use In Commerce: 1987/05/05 canned seafood, namely, tuna, oysters, shrimp; [ prepared salads, namely, potato salad, ham salad, chicken salad; ] cooking and salad oils, namely, canola oil, corn oil, [ cottonseed oil ] , peanut oil, vegetable oil, sunflower oil, [ coconut oil] ; cooking spray, flaked coconut, processed edible seeds, dried fruits, processed nuts, fruit-based snack foods, yogurt covered raisins, maraschino cherries, whipped topping mix, fruit-based pie fillings, applesauce, fruit-based spreads, jams, canned chicken, condensed milk, non-dairy creamer, processed peppers and olives, [ pickled okra ], baked beans, pork and beans, potato mixes, bacon flavor bits, shoestring potatoes, shelled nuts, slivered nuts, bouillon, frozen poultry, [ egg substitutes ], cheese toppings, snack food dips, cheese food, yogurt, vegetable-based spreads, sour cream, trail mix consisting primarily

of processed nuts, raisins, and processed seeds, refried beans, frozen entrees consisting primarily of meat, fish, poultry or vegetables, frozen onion rings, sandwich spread, namely, a mayonnaise substitute [ , dry packaged meals consisting primarily of vegetables ]

Class 030. First use: First Use: 1995/08/31 First Use In Commerce: 1995/08/31  
 baking products, namely, mixes for bakery goods, confectionery chips for baking, pie crust shells, vanilla, baking powder, baking soda, frostings, marshmallow creme; corn-based snack foods, namely, [ popcorn cakes] , tortilla chips, corn chips, cheese curls, nacho cheese chips, syrups, namely, chocolate syrup, corn syrup, maple syrup, pancake syrup; snack foods, namely, candy, yogurt covered pretzels, [ peanut brittle, snack cakes, ] bread sticks, salsa, [ rice cakes] , cereal-derived food bars; sauces, namely, seafood cocktail sauce, [tartar sauce] , picante sauce, taco sauce, cheese sauce, sloppy joe sauce, spaghetti sauce, pizza sauce, pasta sauces, barbecue sauce, hot sauce, steak sauce, worchester sauce, soy sauce, teriyaki sauce; dessert food, namely, [ pies, ] pudding mixes, flavored gelatin mixes, dessert toppings, namely, chocolate toppings, [ butterscotch toppings, caramel toppings], ice cream cones; breakfast foods, namely, waffles, pancakes, bagels, oatmeal, hot cereals, toaster pastries; frozen foods, namely, frozen entrees consisting primarily of pasta or rice, frozen confections, [ pot pies, ] croutons, stuffing, gravy, gravy mixes, spaghetti sauce mix, seasoning mixes, seasoned coating for meat and poultry, bread crumbs, stuffing mixes containing bread, biscuits, seasoning blend contained in a roasting bag, pasta, canned pasta with sauce, dry packaged meals consisting primarily of pasta or rice, [ chow mein noodles], rice mixes, [ tamales], taco shells, [ tostada shells, tortilla mix, ] honey, marshmallows, cocoa

Class 031. First use: First Use: 1988/12/31 First Use In Commerce: 1988/12/31  
 dog food, cat food, cat litter, wild bird seed, pet snacks

Class 032. First use: First Use: 1995/04/18 First Use In Commerce: 1995/04/18  
 breakfast fruit-drink mixes, [ fruit nectars, ] non-alcoholic ciders, fruit drinks, carbonated soft drinks, low calorie soft drinks, soft drink mixes, bottled drinking water, sports drinks, [ beer ]

Class 034. First use: First Use: 1995/01/31 First Use In Commerce: 1995/01/31  
 cigarettes, cigarette lighters not of precious metals

U.S. Registration No.	1928809	Application Date	09/03/1991
Registration Date	10/24/1995	Foreign Priority Date	NONE
Word Mark	SHUR FINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1989/09/30 First Use In Commerce: 1989/09/30 bouillon cubes, canned salmon, canned tuna, chicken salad, chopped ham salad, coffee creamers, cream cheese, frozen chicken, frozen coffee creamers, hominy, jalapeno spread, lebanon bologna, pickled peppers/onions, pork sausage, potato salad, refrigerated spreads, including cheese-based spreads, fruit-based spreads,[ meat-based spreads ]and vegetable-based spreads, strawberry gelatin, vegetable based food dips		

U.S. Registration No.	1916702	Application Date	07/21/1994
Registration Date	09/05/1995	Foreign Priority Date	NONE

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.