

ESTTA Tracking number: **ESTTA442314**

Filing date: **11/21/2011**

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.
Granted to Date of previous extension	11/20/2011
Address	6700 SW Sandburg St. Tigard, OR 97223 UNITED STATES

Attorney information	Hillary A. Brooks Marger, Johnson & McCollom, P.C. 210 SW Morrison St., Ste. 400 Portland, OR 97223 UNITED STATES litigationdocketing@techlaw.com, hillary@techlaw.com, lisariley@techlaw.com Phone:(503) 222-3613
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Applicant Information

Application No	77959354	Publication date	05/24/2011
Opposition Filing Date	11/21/2011	Opposition Period Ends	11/20/2011
International Registration No.	NONE	International Registration Date	NONE
Applicant	Fonterra TM Limited 9 Princes Street Auckland, NEW ZEALAND		


Goods/Services Affected by Opposition


<p>Class 029. All goods and services in the class are opposed, namely: Dairy products excluding ice cream, ice milk and frozen yoghurt; dairy based beverages; dairy based powders for making dairy based beverages; milk; UHT milk; milk products excluding ice cream, ice milk and frozen yogurt; milk protein; condensed milk; milk powder; dried milk for food; milk based beverages containing milk concentrates, vegetable oil and added nutrients; flavoured milk; soy based food beverage used as a milk substitute; margarine; edible oils and fats; butter substitutes, namely, blends of oils and fats with dairy products; dairy based food spreads that are blends of margarine, butter and other edible oils; protein powders for human consumption for use as a food additive; milk proteins for human consumption; cheese and cheeses; cheese spreads; cultured dairy products, namely, sour cream, cr�me fraiche; yoghurt; yoghurt for drinking; yoghurt based drinks; flavoured dairy desserts, namely, dairy-based dips, dairy based snack foods excluding ice cream, ice milk and frozen yoghurt; whey; whey protein for use as a food additive; whey protein isolate for use as a food additive; casein for food; food spreads, namely, dairy based spreads, cheese spreads; jellies for food</p>
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
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.	3561021	Application Date	06/27/2008
Registration Date	01/13/2009	Foreign Priority Date	NONE
Word Mark	SHURFINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 002. First use: First Use: 2004/09/00 First Use In Commerce: 2004/09/00 food colors for domestic use		

U.S. Registration No.	3557469	Application Date	06/27/2008
Registration Date	01/06/2009	Foreign Priority Date	NONE
Word Mark	SHURFINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2000/10/00 First Use In Commerce: 2000/10/00		


	batteries		
U.S. Registration No.	3557361	Application Date	05/28/2008
Registration Date	01/06/2009	Foreign Priority Date	NONE
Word Mark	SHURFINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 034. First use: First Use: 1990/01/01 First Use In Commerce: 1990/01/01 Matches; cigar and cigarette lighters not for land vehicles		

U.S. Registration No.	3557360	Application Date	05/28/2008
Registration Date	01/06/2009	Foreign Priority Date	NONE
Word Mark	SHURFINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2002/03/01 First Use In Commerce: 2002/03/01 Bottled water; distilled drinking water; seltzer water; sparkling water; soda water; flavored waters; vegetable juices; apple-juice beverages; orange-juice beverages; fruit juice; fruit drinks; fruit juice concentrates; sports drinks; soda pops; soft drinks; and concentrates, syrups or powders used in the preparation of drinks		


U.S. Registration No.	3557359	Application Date	05/28/2008
Registration Date	01/06/2009	Foreign Priority Date	NONE

Word Mark	SHURFINE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 031. First use: First Use: 1990/01/01 First Use In Commerce: 1990/01/01 dog food; puppy food; cat food; dog biscuits; cat litter; bird seed; and pet treats

U.S. Registration No.	3557358	Application Date	05/28/2008
Registration Date	01/06/2009	Foreign Priority Date	NONE

Word Mark	SHURFINE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2006/06/01 First Use In Commerce: 2006/06/01 Pasta and noodles; dried pasta; macaroni and cheese; breakfast cereals; ready to eat, cereal derived food bars; hot cereal; ready to eat cereals; bread and pastry; muffins; biscuits; cookie dough; taco shells; dessert puddings; instant puddings; flavored and sweetened gelatins; coffee; decaffeinated coffee; instant coffee; tea; tea bags; instant tea; iced tea mix; cake mixes; brownie mixes; instant pancake mixes; muffin mixes; stuffing mixes containing bread; flour for food; wheat flour; corn flour; sugar; brown sugar; powdered sugar; sugar substitutes; processed coconut; frosting mixes; corn meal; croutons; pie crusts; confectionery chips for baking; chocolate chips; baking soda; yeast; yeast powder; bread crumbs; popcorn; candy coated popcorn; microwave popcorn; tortilla chips; corn chips; pretzels; cheese curls and puffs; snack mix consisting primarily of crackers, pretzels, candied nuts and/or popped popcorn; pastries; toaster pastries; granola-based snack bars; frozen meals consisting primarily of pasta; frozen pizza; frozen appetizers consisting primarily of bread, sauce, and cheese; frozen desserts consisting of fruit and cream or cream substitutes; gravies; meat gravies; relish; pimiento used as a condiment; unpopped popcorn; rice; rice and seasoning mix combined in unitary packages; frozen bakery goods; ketchup; mustard; vinegar; barbecue sauces; chili sauce; soy sauce;

	steak sauce; teriyaki sauce; Worcestershire sauce; hot sauce; salsa; picante sauce; marinades; pizza sauce; spaghetti sauce; pancake syrup; maple syrup; corn syrup; cocoa mixes; cocoa powder; topping syrup; chocolate syrup; honey; waffles; salt; table salt; pepper; extracts used as flavoring; spices; baking spices; dry spice rub for meats and fish; spice blends; spice rubs; gravy; gravy mixes; taco seasoning; sauce mixes; dry seasoning mixes for gravy, spaghetti, stews, meatloaf and sloppy Joes; seasoned coating for meat, fish, and poultry; tortillas; mayonnaise; salad dressing; beverages made of tea; candy; cookies; crackers; ice cream; cones for ice cream; and frozen confections, namely, freezer pops; chocolate topping
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U.S. Registration No.	3557357	Application Date	05/28/2008
Registration Date	01/06/2009	Foreign Priority Date	NONE
Word Mark	SHURFINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 2005/06/01 First Use In Commerce: 2005/06/01</p> <p>Pre-packaged dinners consisting of primarily of meat, poultry and fish with pasta; cheese; cream cheese; processed cheese; cheese spreads; cheese substitutes; mold-ripened cheese; soft cheese; white cheese; low-fat cheese; non-fat cheese; string cheese; yogurt; butter; butter substitutes; margarine; vegetable-based spreads; Maraschino cherries; processed cherries; fruit-based pie filling; frozen fish; vegetable oils and fats; canned fish; canned oysters; chili with and without beans; beef stew; canned cooked meat; canned pork and beans; canned refried beans; canned beans; jerky; frozen meals consisting primarily of meat, poultry and/or vegetables; applesauce; canned fruits and vegetables; sauerkraut; dried fruits; canned fruits; frozen fruits; fruit-based snack foods; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; instant potatoes; frozen potatoes; shortening; edible oils; edible fats; processed oils and fats; vegetable oils; non-dairy creamer; broth; bouillon; bouillon concentrates; vegetable protein bits having a bacon flavor; soups; canned soups; soup mixes; pickled fruits; pickled vegetables; processed olives; pickles; processed peppers; dried beans; frozen chicken; ham; bacon; luncheon meats; frankfurters; hot dogs; sausages; dried meat; canned tomatoes; vegetable juice for cooking; sour cream; sour cream substitutes; cottage cheese; half and half; whipping cream; peanut butter; fruit preserves; jellies; jams; marmalade; fruit-based spreads; whipped cream; whipped topping; milk; evaporated milk; powdered milk; dip; frozen vegetables; and dairy-based dips; processed nuts; raisins; potato chips; fruit-based snack food; frozen meals consisting primarily of potatoes</p>		

U.S. Registration No.	3557355	Application Date	05/28/2008
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