# TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM305410

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|---|---|
| **SUBMISSION TYPE:** | NEW ASSIGNMENT |
| **NATURE OF CONVEYANCE:** | MERGER |
| **EFFECTIVE DATE:** | 04/18/2012 |

**CONVEYING PARTY DATA**

| Name | Formerly | Execution Date | Entity Type |
|---|---|---|---|
| MarketFare Foods, Inc. | | 04/18/2012 | CORPORATION: DELAWARE |

**RECEIVING PARTY DATA**

| | |
|---|---|
| **Name:** | Greencore USA, Inc. |
| **Street Address:** | 222 Rosewood Drive |
| **Internal Address:** | Suite 240 |
| **City:** | Danvers |
| **State/Country:** | MASSACHUSETTS |
| **Postal Code:** | 01923 |
| **Entity Type:** | CORPORATION: DELAWARE |

**PROPERTY NUMBERS Total: 1**

| Property Type | Number | Word Mark |
|---|---|---|
| **Serial Number:** | 85065325 | THE GRIDDLER |

OP $40.00 85065325

**CORRESPONDENCE DATA**

**Fax Number:** 6029551585

***Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.***

**Email:** obeabeau@galbutlaw.com
**Correspondent Name:** Olivier A. Beabeau
**Address Line 1:** 2425 E. Camelback Road
**Address Line 2:** Ste. 1020
**Address Line 4:** Phoenix, ARIZONA 85016

| | |
|---|---|
| **ATTORNEY DOCKET NUMBER:** | 7228-2 |
| **NAME OF SUBMITTER:** | Olivier A. Beabeau |
| **SIGNATURE:** | /Olivier A. Beabeau/ |
| **DATE SIGNED:** | 05/22/2014 |

**Total Attachments: 8**
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Cameron A. Fine
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docket@galbutlaw.com
Attorneys for Applicant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

| | |
|---|---|
| SARA LEE FOODS, LLC., a Delaware limited liability company,<br><br>Opposer,<br><br>vs.<br><br>MARKETFARE FOODS, INC., an Arizona corporation,<br><br>Applicant. | Opposition No. 91198239<br><br>Application Serial No. 85065325<br><br>**DECLARATION OF ROD COLEMAN** |

ROD COLEMAN declares under penalty of perjury that the following is true and correct:

1. I am an adult, and I am competent to make this declaration of my own personal knowledge.

2. I am the former President and Chief Executive Officer of MarketFare Foods, Inc.

3. MarketFare Foods, Inc. was an Arizona corporation with its principal place of business in Phoenix, Arizona.

4. MarketFare Foods, Inc. maintained its corporate offices in Phoenix, Arizona and managed production facilities in Salt Lake City, Utah and Fredericksburg, Virginia.

5. Between May, 1999 and approximately April 18, 2012, MarketFare Foods, Inc. engaged in the business of food manufacturing and distribution.

6. MarketFare Foods, Inc.'s business entailed manufacturing food products for sale at convenience stores, grocery stores, drug stores, and vending machines throughout the country.

7. In or about June, 2009, MarketFare Foods, Inc. took initial steps to develop a refrigerated breakfast sandwich product at its Fredericksburg, Virginia facility.

8. In or about May, 2010, MarketFare Foods, Inc. made a determination to brand its new breakfast sandwich as THE GRIDDLER.

9. The development of THE GRIDDLER product was transitioned to MarketFare Foods, Inc.'s Salt Lake City, Utah facility, and development was thereafter directed at a frozen product for national distribution through convenience stores and grocery stores.

10. On June 17, 2010, MarketFare Foods, Inc. caused an application for registration for the trademark THE GRIDDLER to be filed with the United States Patent and Trademark Office for breakfast sandwiches in International Class 30 pursuant to Section 1(b) of the Lanham Act (App. Serial No. 85065325).

11. Presentations of THE GRIDDLER product and THE GRIDDLER mark were made to prospective customers of MarketFare Foods, Inc. as early as June, 2010, and the breakfast sandwich product was put into production in November, 2010.

12. Samples of THE GRIDDLER product bearing THE GRIDDLER mark were presented to select grocery stores and convenience stores in California, Kansas, Ohio, and Texas, and at a trade show in Illinois, in 2010.

13. THE GRIDDLER frozen product line has included maple hot cake sandwiches, sausage sandwiches, sausage and cheese sandwiches, and sausage, egg, and cheese sandwiches.

14. THE GRIDDLER product was first sold to the public at a convenience store in Salt Lake City, Utah in November of 2010.

15. Attached hereto as Exhibit "1" are true and correct copies of labels affixed to THE GRIDDLER products sold in commerce.

16. Due in principal part to its dispute with Sara Lee Foods, LLC, MarketFare Foods, Inc. caused THE GRIDDLER product to temporarily be sold under a different brand name "Marketfare" in Alabama, Arizona, California, Colorado, Georgia, Illinois, Kentucky, Florida, Minnesota,

Mississippi, New York, North Carolina, Pennsylvania, Texas, Virginia, and Washington to avoid potential confusion with Sara Lee Foods, LLC's branded breakfast sandwich products during the pendency of this action.

17. On or about April 18, 2012, the operations of MarketFare Foods, Inc. were acquired by Greencore USA, Inc. through a merger.

18. On or about April 18, 2012, all right, title, and interest in THE GRIDDLER mark, including United States Patent and Trademark Office App. Serial No. 85065325, were acquired by Greencore USA, Inc. through a merger.

19. Between May, 2010 and April 18, 2012, MarketFare Foods, Inc. maintained a genuine intent to use the mark THE GRIDDLER in commerce for breakfast sandwiches.

FURTHER DECLARANT SAYETH NOT.

DATED this 20th day of May, 2014.

Rod Coleman

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Rod Coleman

# EXHIBIT "1"

# GRIDDLER

## MAPLE HOT CAKES & SAUSAGE

U.S. INSPECTED AND PASSED BY DEPARTMENT OF AGRICULTURE EST. 4967

NET WT. 4.45 OZ

**GRIDDLER — Maple Hot Cakes & Sausage**

INGREDIENTS: MAPLE HOT CAKES: Water, Enriched Wheat Flour (Flour, Niacin, Thiamine Mononitrate, Iron, Riboflavin, Folic Acid), Maple– Flavored Pieces (Palm Oil, Sugar, Flour, Cellulose, Maple Sugar, Soy Lecithin, Natural and Artificial Flavor, Glucose, Spice Extract, Color (Caramel, Yellow 5 Lake, Red 40 Lake, Blue 1 Lake)), Sugar, High Fructose Corn Syrup, Dextrose, Leavening (Sodium Bicarbonate, Sodium Acid Pyrophosphate, Calcium Phosphate), Modified Cornstarch, Rice Flour, Whey Powder, Salt, Natural and Artificial Flavor, Buttermilk Powder, Soybean Oil, Mono– and Diglycerides, Guar Gum, Enzymes, Calcium Propionate (Preservative). PORK SAUSAGE PATTY: Pork, Water, Seasoning (Salt, Spice, Caramel Color, Sugar, Corn Oil, Antioxidants (BHT, BHA, Citric Acid), Soy Protein Concentrate. CONTAINS: Milk, Soy, Wheat.

| Nutrition Facts | | | | |
|---|---|---|---|---|
| Serving Size 1 Package (126g) | Amount / Serving | % Daily Value* | Amount / Serving | % Daily Value* |
| Servings Per Container 1 | Total Fat 11g | 17% | Total Carbohydrate 43g | 15% |
| Calories 310 | Saturated Fat 6g | 30% | Dietary Fiber 2g | 8% |
| Calories from Fat 100 | Trans Fat 0g | | Sugars 13g | |
| Percent Daily Values are based on a 2,000 calorie diet | Cholesterol 15mg | 5% | Protein 6g | |
| | Sodium 930mg | 37% | | |
| | Vitamin A 0% • Vitamin C 0% | | Calcium 10% • Iron 15% | |

MARKETFARE FOODS, INC., SALT LAKE CITY, UT 84116

COMMENTS: 1–800–255–8711

KEEP FROZEN

0 52547 79481 9

# 890275

# GRIDDLER - Sausage

# 2870511

CS. PK. 12

UNIT WT. 4.45 OZ.

U.S. INSPECTED AND PASSED BY DEPARTMENT OF AGRICULTURE EST. 4967

0 52547 90275 6

# GRIDDLER

## MAPLE HOT CAKES, SAUSAGE, EGG & CHEESE

NET WT 5.85 OZ

U.S. INSPECTED AND PASSED BY DEPARTMENT OF AGRICULTURE EST. 4987

**Griddler – Maple Hot Cakes, Sausage, Egg & Cheese**

INGREDIENTS: MAPLE HOT CAKES: Water, Enriched Wheat Flour (Flour, Niacin, Thiamine Mononitrate, Iron, Riboflavin, Folic Acid), Maple – Flavored Fleece (Palm Oil, Sugar, Flour, Cellulose, Maple Sugar, Soy Lecithin, Natural and Artificial Flavor, Glucose, Spice Extract Color [Caramel, Yellow 5 Lake, Red 40 Lake, Blue 1 Lake]), Sugar, High Fructose Corn Syrup, Dextrose, Leavening (Sodium Bicarbonate, Sodium Acid Pyrophosphate, Calcium Phosphate), Modified Cornstarch, Rice Flour, Whey Powder, Salt, Natural and Artificial Flavor, Buttermilk Powder, Soybean Oil, Mono – and Diglycerides, Guar Gum, Enzymes, Calcium Propionate (Preservative). PORK SAUSAGE PATTY: Pork, Water, Seasoning (Salt, Spice, Caramel Color, Sugar, Corn Oil, Antioxidants (BHT, BHA, Citric Acid), Soy Protein Concentrate. EGG PATTY: Whole Eggs, Non Fat Dry Milk, Modified Food Starch, Salt, Xanthan Gum, Citric Acid, Pepper. PASTEURIZE PROCESSED AMERICAN CHEESE: American Cheese (Cultured Milk, Salt, Enzymes), Cream, Sodium Citrate, Sodium Phosphate, Salt, Sorbic Acid, APC – Carotene and Beta Carotene. CONTAINS: Milk, Soy, Wheat.

**Nutrition Facts**

Serving Size 1 Package (186g)
Servings Per Container 1
Calories 390
Calories from Fat 140

| Amount / Serving | % Daily Value* | Amount / Serving | % Daily Value* |
|---|---|---|---|
| Total Fat 16g | 25% | Total Carbohydrate 40g | 13% |
| Saturated Fat 9g | 46% | Dietary Fiber 3g | 8% |
| Trans Fat 0g | | Sugars 12g | |
| Cholesterol 130mg | 43% | Protein 19g | |
| Sodium 1200mg | 50% | | |

Vitamin A 4% • Vitamin C 0% • Calcium 15% • Iron 15%

Percent Daily Values are based on a 2,000 calorie diet

MARKETFARE FOODS, INC., SALT LAKE CITY, UT 84116
COMMENTS: 1-800-295-0711

KEEP FROZEN

0 52547 12479 9

# 892532

# GRIDDLER - Ssg, Egg, Chs

# 2870511

CS. PK. 12

UNIT WT. 5.85 OZ.

U.S. INSPECTED AND PASSED BY DEPARTMENT OF AGRICULTURE EST. 4987

0 52547 92532 2

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Attorneys for Applicant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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| SARA LEE FOODS, LLC., a Delaware limited liability company,<br><br>Opposer,<br><br>vs.<br><br>MARKETFARE FOODS, INC., an Arizona corporation,<br><br>Applicant. | Opposition No. 91198239<br><br>Application Serial No. 85065325<br><br>**DECLARATION OF LIAM MCCLENNON** |

LIAM MCCLENNON declares under penalty of perjury that the following is true and correct:

1. I am an adult, and I am competent to make this declaration of my own personal knowledge.

2. I am the Chief Executive Officer of Greencore USA, Inc. ("Greencore").

3. Greencore is a Delaware corporation with its principal place of business in Danvers, Massachusetts.

4. Greencore has been in the business of food manufacturing and distribution since 2008.

5. Greencore manages production facilities in seven (7) states in the United States of America.

6. Greencore's business includes manufacturing prepared and packaged food products

for sale at convenience and grocery stores in twenty-five (25) states in the United States of America.

7. On or about April 18, 2012, Greencore acquired the operations of MarketFare Foods, Inc. through a merger.

8. On or about April 18, 2012, Greencore acquired from MarketFare Foods, Inc. all right, title, and interest in MarketFare Foods, Inc.'s mark THE GRIDDLER, including United States Patent and Trademark Office App. Serial No. 85065325.

9. Greencore acquired all right, title, and interest in the mark THE GRIDDLER with the intent to use the mark in commerce for breakfast sandwiches.

10. Greencore continues to possess a genuine intent to use the mark THE GRIDDLER in commerce for breakfast sandwiches.

FURTHER DECLARANT SAYETH NOT.

DATED this 16 day of May, 2014.

Liam McClennon

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Liam McClennon