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

In the matter of trademark Application Serial No. 75704354 filed May 13, 1999  
For the mark ICELANDSPRING and Design  
Published in the Official Gazette July 9, 2002



12-09-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

SWISS VALLEY FARMS, CO. )  
)  
Opposer, )  
)  
v. )  
)  
THORSPRING-ICELAND, INC., )  
)  
Applicant. )

OPPOSITION NO. \_\_\_\_\_

DEC 20 11 5:30

**NOTICE OF OPPOSITION**

Swiss Valley Farms, Co., an Illinois cooperative, located and doing business at 21100 Holden Drive, Davenport, Iowa (Opposer), believes it will be damaged by the registration in International Class 32 of the mark ICELANDSPRING and Design shown in Application Serial No. 75704354 filed May 13, 1999, by Thorspring-Iceland, Inc., a joint stock company of Iceland (Applicant) located and doing business at Kringlunni 8-12, 103 Reykjavik, Iceland and published for opposition in the Official Gazette on July 9, 2002, and hereby opposes registration thereof.

The grounds for opposition are as follows:

1. By the application herein opposed, Applicant is seeking to obtain, under the provision of the Trademark Act of 1946, as amended, registration upon the principal register of the mark ICELANDSPRING and Design for "non-carbonated pure spring water; mineral and aerated waters and non-alcoholic beverages, namely, soft drinks, lemonade and soda water" in International Class 32.
2. Commencing long prior to Applicant's filing date, Opposer has engaged in and is now engaged in the manufacture, distribution, and sale of bottle drinking water throughout the Midwestern states of the United States.
3. Commencing long prior to Applicant's filing date, Opposer has used and is now using the trademark ICY SPRINGS and is the owner of registration number 1601254 issued on June 12, 1990. Opposer's mark has been in extensive use since at least 1988 and is well known to consumers. Opposer's ICY SPRINGS product is bottled drinking water. The mark is registered in International Class 32.

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4. Since its initial use of the mark noted in paragraph 3 above, Opposer has used, advertised, promoted, and offered Opposer's ICY SPRINGS product with the result that Opposer's customers have come to know and recognize Opposer's mark and associate the mark with Opposer and the goods and services sold by Opposer.

5. Upon information and belief, Applicant filed this application to registered its ICELANDSPRING and Design mark on May 13, 1999, as an intent to use application under 15 U.S.C. § 1051(b).

6. Applicant is claiming a first use date as of October 1, 1999. In addition to a first use in commerce date as of April 1, 2000, Applicant is further claiming priority under Section 44(e). Applicant's mark, ICELANDSPRING and Design is registered in Iceland under Foreign Registration Number 449/1999 as of December 14, 1998, with an expiration of April 6, 2009.

7. In view of the issuance of Opposer's registration noted above in paragraph 3 well prior to any use by Applicant and prior to the filing by Applicant of its Application Serial No. 75704354, there is no issue of priority concerning Opposer's adoption and use of its mark noted in paragraph 3 above prior to any adoption used of the opposed mark by Applicant.

8. If the Applicant is permitted to use and register its mark for its goods noted in paragraph 1, above, Applicant's mark so resemble Opposer's previously used and registered mark noted in paragraph 3 above so as to be likely to cause confusion, mistake, or deception in the trade and among purchasers to the source of Applicant's products.

9. Upon information and belief, Applicant's goods are offered to the same class of purchasers as those that purchase Opposer's goods and are identical goods to those offered by Opposer.

10. Because Applicant's mark and Opposer's mark are confusingly similar and are used on identical goods and are sold in related and identical channels of trade, purchasers are likely to believe and would be justified in believing the Applicant's goods originate from Opposer or from an entity in some way associated with, endorsed by, or sponsored by Opposer, resulting in damage and detriment to Opposer and its reputation.

11. Registration of the mark showing the opposed application will result in damage to Opposer under the provisions of Section 2(d) of the US Trademark Act 15 U.S.C. §1052(d), pursuant to the allegations stated above.

WHEREFORE, Opposer requests that the registration sought by Applicant in U.S. Trademark Application Serial Number 75704354 be refused and this Notice of Opposition be sustained in favor of Opposer. Accompanying the duplicate signed copy of this Notice of Opposition is the required filing fee.

The Opposer appoints Glenn Johnson and Michele Blythe of the firm of Shuttleworth & Ingersoll, P.L.C. as attorneys to prosecute this opposition and to transact all business in the patent and trademark office connected therewith.

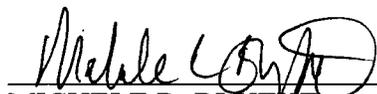
Please direct all correspondence to the attention of: Glenn Johnson, Shuttleworth & Ingersoll, P.L.C., 115 Third Street SE, Suite 500, P. O. Box 2107, Cedar Rapids, IA 52406-2107.

Respectfully submitted,

SWISS VALLEY FARMS CO.  
By its Attorneys

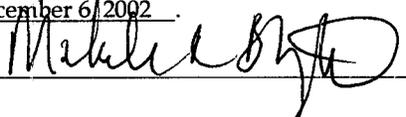
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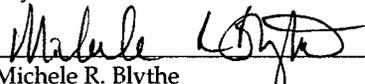
  
\_\_\_\_\_  
GLENN L. JOHNSON

  
\_\_\_\_\_  
MICHELE R. BLYTHE

Copy to:

Howard G. Slavit  
Slavit & Gill, PC  
1025 Thomas Jefferson Street NW, Suite 425  
Washington, DC 20007-5201

**CERTIFICATE OF SERVICE**  
The undersigned hereby certifies that a copy of this instrument was served by mail upon other counsel of record as provided by FRCP 5 on December 6, 2002.  
  
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**CERTIFICATE OF SERVICE**  
The undersigned hereby certifies that this Notice of Opposition is being deposited in the United States Postal Service as first class mail, in an envelope addressed to: Assistant Commissioner for Trademarks, Box TTAB Fee, 2900 Crystal Drive, Arlington, VA 22202-3513 this 6 day of December, 2002.  
  
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Michele R. Blythe