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

Proceeding	85699749
Applicant	TOP BRAND SPÅ#LKA Z OGRANICZONA ODPOWIEDZ
Applied for Mark	ORIGINAL PREMIUM BLACK ENERGY DRINK
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Submission	Amended Notice of Appeal
Attachments	Amended Notice of Appeal - Original Premium Black Energy Drink.pdf(72662 bytes)
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Signature	/john alunit/
Date	08/12/2016

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re:)
)
Serial No. 85699749)
)
Applicant: TOP BRAND SPÓLKA Z OGRANICZONA)
ODPOWIEDZIALNOSCIA W ZABIERZOWIE)
)
Filed: August 9, 2012)
)
Mark: ORIGINAL PREMIUM BLACK ENERGY DRINK)
)

AMENDED NOTICE OF APPEAL

Applicant, TOP BRAND SPÓLKA Z OGRANICZONA
ODPOWIEDZIALNOSCIA W ZABIERZOWIE, submits this Amended Notice of
Appeal to specify that applicant appeals the refusal of the entire class 032.

Applicant today filed a Notice of Appeal, but indicated that it appeals the
refusal of only certain goods in class 032. This decision was based on the manner in
which the Examining Attorney referred to the goods in the Final Office Action of
February 17, 2016, as follows:

Fizzy non-alcoholic drinks containing tannins, namely, **energy drinks**;
Non-alcoholic beverages being fruit based; Non-alcoholic beverages
having a fruit juice base; Non-alcoholic beverages with tea flavor; Non-
alcoholic beverages, namely, soft drinks that are cherry flavored and
contain cola extract; **Non-alcoholic cherry flavored beverages,**
namely, energy drinks, soft drinks, bottled water, sparkling water,
colas; Non-alcoholic beverages consisting of mixtures of fruit juices;
Soft drinks consisting of non-fermented fruit juices; Non-alcoholic
drinks made from water from the ground, namely, sparkling water,
flavored mineral water, isotonic drinks, sports drinks; vitamin
enriched non-alcoholic beverages vitamins not predominating, namely,
drinking water with vitamins, **energy drinks enhanced with**
vitamins, sports drinks enhanced with vitamins; Non-alcoholic soft
drinks made from natural extracts; Non-alcoholic soft drinks made
from artificial extracts; Non-alcoholic beverages containing fruit juices;
Non-alcoholic beverages containing mineral water, namely, fruit
drinks, isotonic drinks, **energy drinks**; Soft drinks; non-alcoholic
sparkling drinks, namely, sparkling water, sparkling fruit juices; Colas
being soft drinks; Non-fizzy **non-alcoholic drinks containing**

tannins, namely, energy drinks, energy shots, sports drinks, soft drinks; Fruit-based soft drinks flavored with tea; non-alcoholic Cordials; isotonic non-alcoholic drinks containing caffeine; Mineral and aerated waters; Non-alcoholic drinks containing pineapple, namely, juices and pineapple juice based beverages; Soya bean based carbonated non-alcoholic beverages not being milk substitutes; Peanut milk being a soft drink; Non-alcoholic beverages made from syrups, namely, soft drinks, fruit drinks, **energy drinks,** sports drinks; Non-alcoholic beverages, namely, soft drinks, sports drinks, isotonic drinks, **energy drinks containing milk ferments;** Squashes being non-alcoholic soft drinks; Soya bean based non-carbonated non-alcoholic drinks not being milk substitutes; Mineral waters.”

Moreover, the Examining Attorney stated “the refusal is limited only to the **goods** identified by applicant in Class 32 only.” Applicant believes this wording is ambiguous, but as a precaution submits this amended Notice of Appeal in the event the Final Refusal refers to the entire class 032.

Submitted: Aug. 12, 2016

By: _____/John Alumit/_____

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