

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

The Sunrider Corporation d.b.a.  
Sunrider International

Opposer,

v.

San Miguel Corporation

Applicant.

Our Ref.: 61234-0008

Opposition No. \_\_\_\_\_

Appl. Serial No.: 76/151,605

Mark: CALI 10

Published for Opposition:  
November 12, 2002

**NOTICE OF OPPOSITION**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence and the identified enclosures are being deposited with the U.S. Postal Service as *First Class* mail, postage prepaid, in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 on March 8, 2004.

By: \_\_\_\_\_

*Christine R. Hype*

The Sunrider Corporation d.b.a. Sunrider International, a Utah corporation located at 1625 Abalone Avenue, Torrance, California 91501 ("Opposer"), believes that it is and will be damaged by the registration on the Principal Register of CALI 10 ("Applicant's mark") in connection with shandy, beer, ale, porter, mineral water, aerated water, soft drinks, concentrates and syrups for making soft drinks (collectively, "Applicant's goods") in International Class 32, which is the subject of Application Serial No. 76/151,605, dated October 19, 2000, in the name of San Miguel Corporation, a corporation of the Philippines ("Applicant"), and Opposer hereby opposes same.

03/15/2004 EPIMR1 00000022 76151605

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As grounds for this Opposition, it is alleged:

1. Opposer has been in the business of development, manufacture, and sale of vitamins, herbal beverages, nutritional foods, cosmetics, personal care products, and household products for over 20 years. Opposer has a worldwide distribution network for its products, with the result that its products are sold to millions of distributors and consumers throughout the world.

2. Opposer has been engaged in the sale of teas ("Opposer's goods") under the trademark CALLI in the United States since at least as early as October 1982. Opposer adopted and began to use the trademark CALLI in connection with Opposer's goods in the United States long prior to November 1999, the date of first use of the mark CALI 10 alleged in Applicant's application, long prior to December 22, 1999, the date of first use in commerce alleged in Applicant's application, and long prior to October 19, 2000, the filing date of Applicant's application. Opposer has continuously used the trademark CALLI for and in connection with Opposer's goods in the United States since its adoption and first use.

3. Applicant is the owner of record of an application for CALI 10 in connection with Applicant's goods, which is the subject of Application Serial No. 76/151,605 dated October 19, 2000.

4. Prior to November 1999, the date of first use of the mark CALI 10 alleged in Applicant's application, prior to December 22, 1999, the date of first use in commerce alleged in Applicant's application, and prior to October 19, 2000, the filing date of Applicant's application, Opposer widely advertised and promoted the trademark CALLI in connection with Opposer's goods in the United States with the result that the name CALLI has

become well known. Because of these efforts and the continued advertising and promotion of the CALLI mark, and by virtue of the excellence of the products sold under Opposer's CALLI mark, Opposer has built up a valuable reputation and tremendous goodwill in its CALLI mark.

5. Opposer is the owner of Registration No. 1,765,511, issued on April 20, 1993, for its CALLI mark in connection with herbal teas for health purposes in International Class 5. The registration is unrevoked and uncanceled, and Opposer is the owner of the registration and the mark shown therein and of all the business and goodwill connected therewith.

6. Opposer believes it will be damaged by the registration of CALI 10 in connection with Applicant's goods within the meaning of Section 13(a) of the Trademark Act (15 U.S.C. §1063(a)).

7. The sound, appearance and commercial and visual impression engendered by Applicant's CALI 10 mark is virtually identical to that of Opposer's CALLI mark, and both Opposer's goods and Applicant's goods are in the field of beverages.

8. Applicant's CALI 10 mark so resembles Opposer's CALLI mark as to be likely, when used in connection with Applicant's goods, to cause confusion, or to cause mistake, or to deceive. Consumers will believe that Applicant's use of CALI 10 in connection with Applicant's goods is in some way associated or connected with or sponsored, authorized or approved by Opposer. Any objection or fault found with Applicant's goods offered under the CALI 10 mark would reflect upon and seriously injure the reputation that Opposer has established in its CALLI mark.

9. Registration of Applicant's CALI 10 mark in connection with Applicant's goods will cause the distinctiveness of Opposer's famous CALLI mark to be diluted and would thereby be a source of damage and injury to Opposer.

10. If Applicant is granted the registration herein opposed it would thereby obtain at least a *prima facie* exclusive right to the use of the CALI 10 mark in the United States in connection with the goods identified in Application Serial No. 76/151,605. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, in accordance with Section 13 of the Trademark Act (15 U.S.C. §1063), Opposer prays that this Opposition be sustained and that Application Serial No. 76/151,605 be refused registration.

The required fee of three hundred dollars (\$300) is enclosed. The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 10-0440.

Two additional copies of the Notice of Opposition are filed herewith.

Respectfully submitted,  
Jeffer, Mangels, Butler & Marmaro LLP

Dated: March 8, 2004

By: Christine L. Lofgren  
Christine L. Lofgren  
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TTAB

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March 8, 2004

Commissioner of Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

Re: The Sunrider Corporation, d.b.a. Sunrider International  
Opposition to Application by San Miguel Corporation  
Mark: **CALI 10**  
App. No.: 76/151,605



03-11-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #64

Dear Madam:

Enclosed for the above-referenced matter please find: (1) Notice of Opposition (in triplicate), (2) return postcard, and (3) check no. 161942 in the amount of \$300.00 to cover the fee for opposing the application in one class.

The Commissioner is hereby authorized to charge any deficiency in the payment of required fees or credit any overpayment to Deposit Account No. 10-0440.

Please direct all communications regarding this matter to the undersigned at the above address.

Best regards.

Very truly yours,

CHRISTINE L. LOFGREN of  
Jeffer, Mangels, Butler & Marmaro LLP

CLL:vs2  
Enclosures