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

In the Matter of Application Serial)
No. 76/151,605)
Published: November 12, 2002)
Mark: CALI 10)
_____)

The Sunrider Corporation d.b.a)
Sunrider International)

Opposer,)

v.)

San Miguel Corporation)

Applicant.)

Opposition No. _____

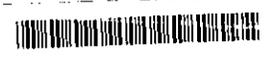
I hereby certify that this paper is being deposited with the United States Postal Service, postage prepaid, as Express Mail in an envelope addressed to: Box NO FEE FEE (or NO FEE), Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 on this date.

John Rembert
Date 11/28/04
Express Mail Label No. EV337064121US

RESPONSE TO NOTICE OF OPPOSITION

Applicant, San Miguel Corporation, "Applicant", for its response to Notice of Opposition of Sunrider International "Opposer" with respect to Applicant's captioned trademark application responds as follows:

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.



04-29-2004

RESPONSE: Applicant does not have sufficient information to determine the truth and validity of Opposer's statements and therefore denies same. Applicant affirmatively states that the product areas indicated by Opposer are significantly different than those listed by Opposer.

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.

RESPONSE: Applicant does not have sufficient information to determine the dates of Opposer's adoption and use of its CALLI mark nor its continuous use and therefore denies the allegations of paragraph 2.

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.

RESPONSE: Applicant admits it is the owner of record for the application for CALI 10 in connection with Applicant's goods which is the subject matter of application serial number 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 b 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.

RESPONSE: Applicant does not have sufficient information to know whether or not Opposer widely advertised and promoted the trademark CALLI in connection with Opposer's goods in the United States and therefore denies same. Applicant denies that the trademark CALLI has become well known in the United States. Applicant denies that Opposer's CALLI mark is used to sell specialty products or that 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.

RESPONSE: Applicant is unaware of what Opposer believes but denies that Opposer will be damaged by the registration of CALI 10 in connection with Applicant's goods.

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)).

RESPONSE: Applicant is unaware of what Opposer believes but denies that Opposer will be damaged by the registration of CALI 10 in connection with Applicant's goods.

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.

RESPONSE: Applicant denies that the appearance and commercial and visual impression engendered by the CALI 10 mark is virtually identical to that of Opposer's CALLI mark and denies that Opposer's goods and Applicant's

goods are in the same field. Applicant affirmatively indicates that Opposer in its notice indicates that its mark is used for vitamins, nutritional foods, cosmetics, personal care products and household products as well as the very limited area of herbal beverages which items are quite different from Applicant's goods.

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.

RESPONSE: Applicant denies the allegations of paragraph 8.

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.

RESPONSE: Applicant denies the allegations of paragraph 9.

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.

RESPONSE: Applicant admits that if Applicant is granted the registration it would obtain the exclusive right to use the mark CALI 10 in the United States in connection with the goods identified in its application. Applicant denies that such registration would be a source of damage and injury to Opposer.

WHEREFORE, Applicant prays that the opposition be denied and that its application be granted registration.

Dated: 4/28/04

Respectfully submitted,

On behalf of Applicant
San Miguel Corporation

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