



No. 78/514,754. Opposer hereby opposes registration of said mark to Applicant on the following grounds on knowledge as to Opposer and otherwise on information and belief:

1. Applicant describes the three-dimensional configuration mark covered by Application Serial No. 78/514,754 ("Applicant's Configuration Mark") as one which consists of "the design of a three-dimensional column for drawing beer and other beverages, the column having generally the shape of a cobra snake rearing up as if to strike."

2. Opposer is a manufacturer of equipment used in the beverage industry, including columns and faucets for drawing beer and other drinks and refrigerated beverage dispensing units. Among the beverage dispensing equipment manufactured by Opposer are cobra type beverage dispensers that have configurations that are similar to Applicant's Configuration Mark.

3. Cobra type dispensers of the type covered by Applicant's Configuration Mark are well known in the beverage dispensing industry and have been sold for many years by numerous companies.

4. Applicant's Configuration Mark in the shape of a cobra is not distinctive or an indicator of source.

5. Applicant's Configuration Mark should be refused registration as a generic configuration for beverage dispensers since numerous companies offer dispensers having the shape of a so called cobra.

6. In the alternative, Applicant's Configuration Mark should be refused registration because it is highly descriptive and Applicant cannot make a showing of acquired distinctiveness.

WHEREFORE, Opposer requests that the opposition be sustained and Application, Serial No. 78/514,754 be refused registration.

Dated: New York, New York  
December 6, 2006

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.  
Attorneys for Tof S.r.L.  
270 Madison Avenue  
New York, New York 10016-0601  
(212) 684-3900

By: *Maria A. Savio*  
Maria A. Savio  
Yuval H. Marcus

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on 12/6/06  
(Date of Deposit)

Mariisol Lopez-DeRossa  
Name of Certifier  
*Mariisol Lopez-DeRossa*  
Signature of Certifier  
Dec. 6, 2006  
Date of Signature