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February 16, 2007

SENT BY EXPRESS MAIL

Commissioner of Trademarks
UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark, Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

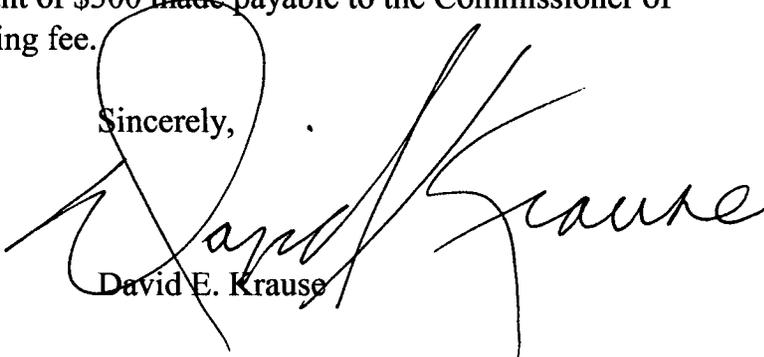
**RE: Application Ser. No. 78-959,811
Mark: BUZZ MONKEY
Notice of Opposition**

Dear Commissioner:

Enclosed for filing please find the following:

1. Notice of Opposition of Buzz Monkey Energy Pty. Ltd., to the above referenced application; and
2. Our firm check in the amount of \$300 made payable to the Commissioner of Trademarks to cover the filing fee.

Sincerely,


David E. Krause

DEK:st
Enclosures
cc: Buzz Monkey Energy Pty. Ltd.

02-16-2007

U.S. Patent & TMO/TM Mail Rcpt Dt. #72

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

Buzz Monkey Energy Pty. Ltd.,)
)
Opposer,)
)
v.)
)
Bison Capital, LLC)
)
Applicant.)
Opposition No. _____
Mark: BUZZ MONKEY
Application Ser. No. 78-959,811
Filed: August 24, 2006
Published: November 14, 2006

NOTICE OF OPPOSITION

Buzz Monkey Energy Pty. Ltd., a corporation organized and existing under the laws of Australia, with its principal place of business at 63 Grove Street, St. Peters, New South Wales 2044, Australia, believes that it will be damaged by the registration of the trademark, BUZZ MONKEY, shown in Application Serial No. 78959811, for "Alcoholic beverages, namely, flavored brewed malt beverages and prepared cocktails" in International Class 33, and hereby opposes the same upon the following grounds:

1. The Opposer is in the business of developing, producing, marketing and distributing a wide range of beverages, including, but not limited to, energy drinks, carbonated and fruit flavored drinks, and mixes for use with alcoholic beverages.

2. Opposer has applied to register on the principal register the following mark owned by Opposer:

BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design, Application Serial Number 77047781, filed November 20, 2006, for "Energy Drinks; Beverages, Namely, Aerated Drinks, Carbonated Non Alcoholic Drinks, Fruit Flavored Non Alcoholic Drinks, Non Alcoholic Cocktail Bases, Non Alcoholic Malt Containing Beverages and Non Alcoholic Beverages for Mixing with Alcoholic Beverages" in International Class 32.

Said application was filed by Opposer on an intent-to-use basis.

3. Opposer intends to use the mark, BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design, to market beverages in commerce throughout the United States.

4. Opposer's Application, Serial Number 77047781, filed November 20, 2006, has a priority date of May 19, 2006 under 15 U.S.C. §1126 and the Paris Convention for the Protection of Industrial Property because Opposer filed its application to register the mark, BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design, in Australia on May 19, 2006 and filed its application to register said mark in the United States of America within the time provided by law.

5. The Application of the Applicant to register the mark, BUZZ MONKEY, which is hereby opposed, was filed August 24, 2006 and has an intent-to-use as its current basis. An extension of time to oppose said application was duly requested and granted. Under said extension, this Notice of Opposition must be filed on or before March 14, 2007.

6. The date that Applicant filed its Application to register the mark, BUZZ MONKEY, is subsequent to the priority date of Opposer's application to register its mark, BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design. Hence, there is no issue as to priority in that Opposer's first constructive use occurred before that of Applicant.

7. Opposer has spent substantial amounts to prepare to market, advertise and promote the mark, BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design in connection with its plans to market and sell its beverage products in the United States.

8. The intended goods of Applicant and the goods of Opposer under their respective applications are identical, or nearly so, because both are beverages.

9. The mark that Applicant proposes to register, namely, the mark, BUZZ MONKEY, is substantially identical to the mark, BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design that Opposer intends to use.

10. Applicant's mark, BUZZ MONKEY so resembles Opposer's mark, BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design as to be likely when applied to Applicant's goods as described in the Applicant's application, to cause confusion, mistake, or deception as to the source of origin of Applicant's goods by creating the erroneous impression that Applicant's goods originate with or are somehow approved, endorsed, licensed or associated with Opposer. As a result, Opposer will be damaged by the registration of Applicant's mark.

11. A federal trademark registration of Applicant's mark, BUZZ MONKEY, would violate and diminish the prior and superior rights of Opposer's mark, BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design, would be contrary to 15 U.S.C. §1052(d) and would diminish the prior and superior rights of Opposer to use said mark.

12. Because of the confusing similarity of Applicant's mark and the Opposer's mark and because the goods of Applicant and the Opposer are similar, will pass in the same channels of commerce and/or will be directed to the same customers, registration of Applicant's mark, BUZZ MONKEY, in connection with the goods described in Applicant's application is likely to cause confusion or is likely to deceive purchasers as to the source or sponsorship of Applicant's goods. Furthermore, the registration of Applicant's mark might prevent the registration of Opposer's mark. As a result, Opposer will be damaged by registration of Applicant's mark, BUZZ MONKEY, on the Principal Register of the United States Patent and Trademark Office.

13. On information and belief, Applicant's intended adoption and use of its mark, BUZZ MONKEY has been with the knowledge of Opposer's prior application in Australia to

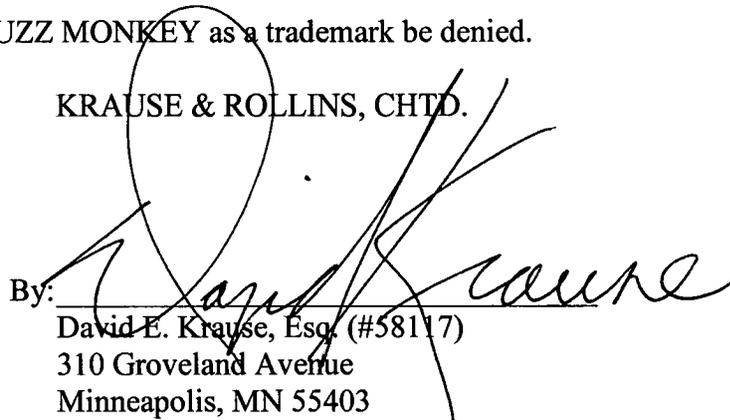
register the mark, BUZZ MONKEY IT'S ALL ABOUT THE BUZZ and Design in connection with Opposer's sale of its beverage products.

14. Applicant's intended adoption and use of the mark, BUZZ MONKEY has been without the consent of Opposer.

WHEREFORE, Opposer asks that this opposition to Application No. 78-959,811 be sustained and that the registration of the term BUZZ MONKEY as a trademark be denied.

KRAUSE & ROLLINS, CHTD.

Dated: February 16 , 2007

By: 

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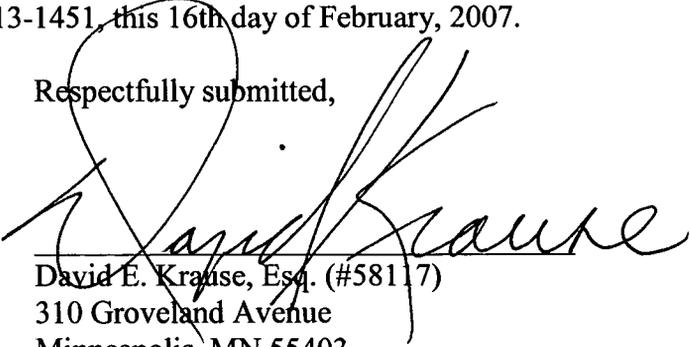
ATTORNEYS FOR OPPOSER
Buzz Monkey Energy Pty. Ltd.

CERTIFICATE OF EXPRESS MAILING

I HEREBY CERTIFY that an original and one true and correct copy of the foregoing document are being deposited by United States Express Mail, Label No. EQ 406420470 US, in an envelope addressed to: U.S. Patent and Trademark Office, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, Virginia, 22313-1451, this 16th day of February, 2007.

Respectfully submitted,

By:



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