

ESTTA Tracking number: **ESTTA363362**

Filing date: **08/16/2010**

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

Proceeding	91195630
Party	Defendant Golden Spirits L.L.C.
Correspondence Address	GOLDEN SPIRITS L.L.C. GOLDEN SPIRITS L.L.C. 407 E LOUISIANA DR STE 101 MCKINNEY, TX 75069 UNITED STATES free2rumm@yahoo.com
Submission	Answer
Filer's Name	Mark Golden
Filer's e-mail	free2rumm@yahoo.com
Signature	/mark golden/
Date	08/16/2010
Attachments	Trademark Answers.pdf ( 9 pages )(36629 bytes )

Trademark Trial and Appeal Board Electronic

ESTTA Tracking number: ESTTA357492

Filing date: 07/12/2010

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

Notice of Opposition

Notice is hereby given that the following pa

Opposer Information

Name Million Beverage, LLC

Granted to Date

of previous

extension

07/10/2010

Address 17105 Kenton Place, Suite 207-C

Cornelius, NC 28031

UNITED STATES

Attorney Albert P. Allan

information Allan Law Firm, PLLC

409 East Boulevard

Charlotte, NC 28203

UNITED STATES

ALAllan@AllanIPLitigation.com Phone:704-371-

Applicant Information

Application No 77626383 Publication date 05/

Opposition Filing

Date

07/12/2010 Opposition

Period Ends

07/10/2010

Applicant Golden Spirits L.L.C.

Ste 101 407 E Louisiana Dr

Mckinney, TX 75069

UNITED STATES

Goods/Services Affected by Opposition

Class 033. First Use: 2008/10/01 First Use I

All goods and services in the class are oppo

Grounds for Opposition

Priority and likelihood of confusion Tradema

Marks Cited by Opposer as Basis for Oppositi

U.S. Registration

No.

3273606 Application Date 10/09/2006

Registration Date 08/07/2007 Foreign Priorit

Date

NONE

Word Mark MILLION

Design Mark

Description of

Mark

NONE

Goods/Services Class 005. First use: First U

Vitamin, mineral, nutrient, amino acid and/c

nature of an alcohol recovery drink, hangove

suppressant beverage formulated to reduce an  
consumption

U.S. Application

No.

77747632 Application Date 05/29/2009

Registration Date NONE Foreign Priority  
Date

NONE

Word Mark MILLION

Design Mark

Description of

Mark

NONE

Goods/Services Class 030. First use:

Teas

U.S. Application

No.

77747620 Application Date 05/29/2009

Registration Date NONE Foreign Priority  
Date

NONE

Word Mark FEEL LIKE A MILLION

Design Mark

Description of NONE

Mark

Goods/Services Class 030. First use:

Teas

U.S. Registration

No.

3281477 Application Date 10/09/2006

Registration Date 08/21/2007 Foreign Priorit

Date

NONE

Word Mark \$

Design Mark

Description of  
Mark

The mark consists of dollar sign in clear bl  
Goods/Services Class 005. First use: First U  
Vitamin, mineral, nutrient, amino acid and/c  
nature of an alcohol recovery drink, hangove  
suppressant beverage formulated to reduce an  
consumption

U.S. Application

No.

77747747 Application Date 05/29/2009

Registration Date NONE Foreign Priority  
Date

NONE

Word Mark \$

Design Mark

Description of NONE

Mark

Goods/Services Class 030. First use:

Teas

Attachments 77017038#TMSN.jpeg ( 1 page )( b

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Certificate of Service

The undersigned hereby certifies that a copy record by First Class Mail on this date.

Signature /Albert P. Allan/

Name Albert P. Allan

Date 07/12/2010

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

MILLION BEVERAGE, LLC, )

)

Opposer, )

)

v. ) Opposition No. \_\_\_\_\_

)

GOLDEN SPIRITS, LLC, )

)

Applicant. )

NOTICE OF OPPOSITION

Applicant, Golden Spirits, LLC (“Million Vod liability corporation with a business address MILLION VODKA that is the subject of applica published May 11, 2010 in class 33.

As grounds in support of approval of Notice Opposer Million asserts the following: GOLDEN SPIRITS LLC ANSWERS WILL F

- 1. Opposer Million, for many years and since use alleged by Applicant Golden Spirits, LLC has continuously used the term “MILLION” as

drink, hangover minimizer beverage, and hangover consumption, and as a trademark for tea.

As for Opposer's tea product. Million Beverage for class 30 coffee, tea, sugar, flour

The opposer's (intent to use) application for "MILLION VODKA" was submitted on November 1, 2008. Therefore, while your client sells green tea, it did not use the mark in commerce to cause confusion in the marketplace with Golden

Courts have found that it is not a registrable trademark for these goods.

"It is elementary that a registrant has rights in a trademark only from use, not registration." *In re* *Trade Dress of* *Energy Drink or Beverages*, 80 F.3d 1771 (Fed.Cir. Nov 17, 1993) (NO. 80,345, 93-1000). "energy drink or Beverages," may be likely to

2. Opposer Million, for many years and since its use alleged by Applicant Golden Spirits, has used the term "FEEL LIKE A MILLION" as a trademark for hangover minimizer beverage, and hangover supplement to reduce and minimize the effects of alcohol consumption on tea.

THIS MARK "feel like a million" HAS NOTHING TO DO WITH ANY CAMPAIGN.

3. Opposer Million, for many years and since its use alleged by Applicant Golden Spirits, has used the term "\$" as a trademark for an alcohol recovery

beverage, and hangover suppressant beverage  
the effects of alcohol consumption, as and a

THIS MARK "\$" HAS NOTHING TO DO WITH GOLDEN

4. Opposer Million is the owner of Registrat  
assignment from Sperling, Inc. on April 20,  
alcohol recovery drink, hangover minimizer b  
beverage formulated to reduce and minimize t  
which is valid and subsisting. THE DATE OF C

CLASS 005.

Pharmaceuticals

Pharmaceutical, veterinary, and sanitary pre  
adapted for medical use, food for babies; pl  
dressings; material for stopping teeth, dent  
preparations for destroying vermin; fungicid  
Therefore, this registered mark for, "MILLIC  
and affords no protection.

5. Opposer Million is the owner of Registrat  
assignment from Sperling, Inc. on April 20,  
recovery drink, hangover minimizer beverage,  
formulated to reduce and minimize the effect  
valid and subsisting.

AGAIN THIS MARK "\$" HAS NOTHING TO DO WITH G  
CAMPAIGN.

6. Applicant filed an application to registe  
for vodka, an alcoholic beverage, on Decembe  
assigned Serial No. 77626383.

Correct.

7. Applicant's mark so resembles Opposer's p marks that the use and registration thereof confusion, mistake, or deception within the Trademark Act.

WHEREFORE, Opposer believes it will be damag Applicant's mark and prays that the oppositi refused.

Opposer Million has claimed Million Beverage for several years," and that this use had re reviewing Million Beverage, LLC's ("Million beverage Million Beverage has begun selling green tea is only sold in a handful of gas s

Recently a "customer" sent Opposer "Million "Million" "Alcohol hangover product" and The FOR RETAIL AND YOU CAN GET THE HANGOVER PROD

That does not sound like the Opposer "Millic Pharmaceutical industry let alone the Alcoh So according to Opposer "Million' The "Milli Therefore, it would be hard to argue that t industry" for any particular good, let alone consuming public and as such, Opposer "Milli industry.

Date: July 13, 2010

Respectfully submitted,  
Applicant Golden Spirits, LLC

By:Mark Golden

President/CEO  
Million Vodka  
MG@millionvodka.com