

ESTTA Tracking number: **ESTTA357972**

Filing date: **07/14/2010**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Philip Restifo		
Entity	Individual	Citizenship	UNITED STATES
Address	8101 W. Rosada Way Las Vegas, NJ 89149 UNITED STATES		

Correspondence information	Philip Restifo 8101 W. Rosada Way Las Vegas, NV 89149 UNITED STATES cigars555@cs.com
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Applicant Information

Application No	77925974	Publication date	06/15/2010
Opposition Filing Date	07/14/2010	Opposition Period Ends	07/15/2010
Applicant	Power Beverages, LLC 24 Green Valley Drive Greenville, SC 29617 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 2008/10/07 First Use In Commerce: 2008/10/07 All goods and services in the class are opposed, namely: Liquor and liqueur beverages, namely, vodka
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	The opposer, Philip Restifo President of Data Commodities Ltd., are the true rightful owner of the trademark in question. That said mark was created, developed, designed, bottled, with Federal approvals and sold in commerce. That the applicant is not and was not, at any time of filing the rightful owner of the said mark. That the applicant has no bone fied use of said mark in commerce prior or after the filing of said mark

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77080324	Application Date	01/10/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	YING YANG VODKA		
Design Mark			
Description of Mark	The mark consists of the yin-yang symbol with dripping water coming off the design. The wording YING YANG VODKA is in the shape of a wave.		
Goods/Services	Class 033. First use: Vodka		

Related Proceedings	On 1/3/2008 The opposer, Philip Restifo President of Data Commodities Ltd., filed an opposition with The Trademark Trials & Appeals Board opposition number 91181671 Ying Yang Vodka Serial Number 77080324 Power Beverages LLC who filed for the Trademark Ying Yang number 77925974 was also named in the opposition. This case is still pending before the Appeals board.
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Attachments	77080324#TMSN.jpeg (1 page)(bytes) yingyangcrpoed05.pdf (1 page)(236269 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Philip Restifo/
Name	Philip Restifo
Date	07/14/2010



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