

ESTTA Tracking number: **ESTTA423157**

Filing date: **08/03/2011**

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	Horizon U.A.E. FZCO
Granted to Date of previous extension	08/03/2011
Address	Lob 16 No. 314Jebel Ali Dubai, UNITED ARAB EMIRATES
Attorney information	Timothy P. Fraelich, Ashley H. Zito JONES DAY 901 Lakeside Avenue Cleveland, OH 44114-1190 UNITED STATES tfraclich@jonesday.com, pcyingier@jonesday.com, azito@jonesday.com Phone:(216) 586-3939

Applicant Information

Application No	79082490	Publication date	04/05/2011
Opposition Filing Date	08/03/2011	Opposition Period Ends	08/03/2011
International Registration No.	1038445	International Registration Date	03/08/2010
Applicant	Attila Bakonyi-Kiss Erdőfalva u. 192/a H-1037 Budapest HUNGARY		

Goods/Services Affected by Opposition

<p>Class 029. All goods and services in the class are opposed, namely: Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk; milk products excluding ice cream, ice milk and frozen yogurt; edible oils and fats</p>
<p>Class 030. All goods and services in the class are opposed, namely: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour; processed cereals, bread, pastry and confectionery made of sugar, edible ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces; spices; ice</p>
<p>Class 032. All goods and services in the class are opposed, namely: Beers; mineral and aerated waters; non-alcoholic drinks, namely, soft drinks, colas, energy drinks, isotonic drinks, cider; fruit drinks and fruit juices; syrups for making beverages; preparations for making beverages, namely, soft drinks, colas, energy drinks and isotonic drinks, fruit drinks and fruit juices</p>

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2147007	Application Date	01/03/1996
Registration Date	03/31/1998	Foreign Priority Date	NONE
Word Mark	ABC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 [milk, canned mushrooms, Ramen (noodles with soup mix in cups and packets), canned sardines, soup mix] Class 030. First use: First Use: 1975/00/00 First Use In Commerce: 1978/00/00 chili sauce, ketchup,[noodles, prepared tea,] seafood sauce, soy sauce		

Attachments	Notice of Opposition.pdf (7 pages)(23361 bytes) Ex A.pdf (6 pages)(39717 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	/Ashley H. Zito/
Name	Ashley H. Zito
Date	08/03/2011

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

In the matter of

U.S. Trademark Application No. 79/082,490
For the Mark ABC DIET SYSTEM
Published in the Official Gazette on April 5, 2011

HORIZON U.A.E. FZCO,

Opposer,

v.

ATTILA BAKONYI-KISS,

Applicant.

Opposition No. _____

Commissioner of Trademarks
Box TTAB
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

1. Opposer, Horizon U.A.E. FZCO (“Opposer”), a company duly organized and existing under the laws of United Arab Emirates and having a place of business at LOB 16 No. 314, Jebel Ali, Dubai, United Arab Emirates, believes that it will be damaged by the registration of the mark ABC DIET SYSTEM (“Applicant’s Mark”) shown in trademark application Serial No. 79/082,490 (the “Application”) and hereby opposes same pursuant to 15 U.S.C. §§ 1052 and 1063.

2. To the best of Opposer’s knowledge, the name and address of the current owner of the Application is Attila Bakonyi-Kiss (“Applicant”), Erdőalja u. 192/a H-1037 Budapest, Hungary.

As grounds for opposition, it is alleged that:

OPPOSER’S REGISTERED MARK

3. Opposer is the owner of United States Trademark Registration Number 2,147,007 for the mark ABC for use in connection with “chili sauce, soy sauce” in Class 30, which registration has not been cancelled, is valid and in full force and effect (the “ABC Mark”). The ABC Mark has become incontestable as a matter of law under 15 U.S.C. § 1065. A copy of a current printout of information from the electronic database records of the USPTO (“TARR”) showing the current status and title of the registration for the ABC Mark along with a copy of the assignment history of the ABC Mark is attached hereto as Exhibit A.

4. Opposer’s ownership in the ABC Mark results from the following chain of title:

Assignment	by PT ABC Central Food Industry to Chesterfield Finance Limited (recorded at Reel 2944/Frame 0361);
Assignment	by Chesterfield Finance Limited to Horizon Investment Inc. (recorded at Reel 2944/Frame 0392);
Assignment	by Horizon Investment Inc. to Horizon U.A.E. FZCO (recorded at Reel 3830/Frame 0718).

OPPOSER’S USE OF THE ABC MARK

5. Opposer, through its predecessors and licensees, since at least as early as 1978, has been, and is now, using the mark ABC throughout the United States in connection with the goods described above.

6. Opposer’s use of the ABC Mark, as described above, has been valid and continuous since the date of first use.

7. Opposer has made substantial sales of goods under the ABC Mark.
8. Opposer's continuous, exclusive and commercially-successful use of the ABC

Mark is symbolic of the extensive good will and consumer recognition built up by Opposer through substantial amounts of time, money and effort in manufacturing, advertising and promotion.

9. Upon information and belief, Opposer's ABC Mark is widely and highly recognized by the general, consuming public of the United States as a designation of source of Opposer's goods.

10. Upon information and belief, the ABC Mark has come to serve as a unique and famous identifier of Opposer's goods offered under the mark.

THE APPLICATION

11. Notwithstanding Opposer's prior rights, on June 3, 2010, Applicant filed the Application with the USPTO to register the mark ABC DIET SYSTEMS to identify, among other goods:

Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk; milk products excluding ice cream, ice milk and frozen yogurt; edible oils and fats in **International Class 29**;

Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour; processed cereals, bread, pastry and confectionery made of sugar, edible ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces; spices; ice in **International Class 30**; and

Beers; mineral and aerated waters; non-alcoholic drinks, namely, soft drinks, colas, energy drinks, isotonic drinks, cider; fruit drinks and fruit juices; syrups for making beverages; preparations for making beverages, namely, soft drinks, colas, energy drinks and isotonic drinks, fruit drinks and fruit juices in **International Class 32**

all based on a request for extension of protection of International Registration Number 1038445 (the “International Registration”) to the United States pursuant to section 66(a) of the Trademark Act, with priority based on the international registration date of March 8, 2010.

12. The Application was published in the Official Gazette on April 5, 2011.

COUNT I
LIKELIHOOD OF CONFUSION

13. Opposer incorporates each and every allegation of Paragraphs 1-12 of this Notice as though fully set forth herein.

14. Opposer’s use of the ABC Mark long predates any alleged use by Applicant for Applicant’s Mark.

15. Opposer’s use of the ABC Mark long predates the international registration date of March 8, 2010 of Applicant’s International Registration.

16. Opposer’s use of the ABC Mark long predates the filing date of the Application.

17. Upon information and belief, Applicant was aware of Opposer and Opposer’s long-standing use of the ABC Mark when it filed the Application.

18. Upon information and belief, Applicant’s Mark ABC DIET SYSTEM, to be used in connection with the goods in Classes 29, 30 and 32, as identified in Application No. 79/082,490, is confusingly similar to the ABC Mark as used and registered by Opposer.

19. Upon information and belief, the goods in Classes 29, 30 and 32 to which to which Applicant’s Mark will be applied are related to various products on and in connection with which Opposer and its predecessors-in-interest have used, and are using, the ABC Mark.

20. Upon information and belief, the goods in Classes 29, 30 and 32 to which Applicant’s Mark will be applied, and the products on and in connection with which Opposer uses the ABC Mark, are products that are offered for sale and sold in identical channels of trade.

21. Upon information and belief, the goods in Classes 29, 30 and 32 to which Applicant's Mark will be applied, and the products on and in connection with which Opposer uses the ABC Mark, are products that are offered for sale and sold to the same class of purchasers.

22. Upon information and belief, both Opposer's goods and Applicant's goods in Classes 29, 30 and 32, as identified in the Application, are relatively low-priced and may be purchased on impulse by consumers.

23. Due to the similarity of the marks involved, relatedness of the goods, identical class of purchasers, and other factors, confusion is likely as between Applicant's Mark ABC DIET SYSTEM and Opposer's ABC Mark, pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

24. Registration of Applicant's Mark is likely to cause confusion or mistake in the minds of consumers, and to lead the relevant public into believing that Applicant's goods are Opposer's, or are affiliated with, endorsed, approved or sponsored by Opposer, or are otherwise connected with Opposer, all to the damage and injury of Opposer and the relevant public.

25. In view of the above, the grant of a registration for Applicant's Mark, as sought in the Application, should be denied.

COUNT II
TRADEMARK DILUTION

26. Opposer incorporates each and every allegation of Paragraphs 1-25 of this Notice as though fully set forth herein.

27. Through extensive use, advertising and promotion, the ABC Mark has become famous in accordance with the standard set forth in 15 U.S.C. § 1125(c).

28. The ABC Mark was well established and famous long before the filing date of the Application and at the time that Applicant filed the Application.

29. Registration of Applicant's Mark is likely to cause the dilution of the distinctiveness of Opposer's famous ABC Mark, to the injury of Opposer, by lessening the capacity of the ABC Mark to identify and distinguish Opposer's goods and services, or otherwise diluting or tarnishing Opposer's famous ABC Mark.

30. Based on the foregoing, the grant of a registration for Applicant's Mark as sought in the Application should be denied based on a likelihood of dilution of the distinctive quality of Opposer's ABC Mark, in violation of Section 43 (c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposer prays that Application Serial No. 79/082,490 be rejected for the goods in Classes 29, 30 and 32, as identified in the Application, on the basis of: (1) likelihood of confusion and (2) likelihood of dilution; and that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

Dated this 3rd day of August, 2011.

Respectfully submitted,

By: /s/Ashley H. Zito

Timothy P. Fraelich

Ashley H. Zito

JONES DAY

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Cleveland, Ohio 44114-1190

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(216) 579-0212 (fax)

tfraelich@jonesday.com

azito@jonesday.com

Attorneys for Opposer

Horizon U.A.E. FZCO

CERTIFICATE OF SERVICE

A copy of the foregoing was served on this 3rd day of August, 2011, via first-class mail upon the Attorney of Record for Applicant:

Mark I. Peroff, Esq.
Hiscock & Barclay LLP
44th Floor
Seven Times Square
New York, New York 10036

/s/Ashley H. Zito
Attorney for Opposer

EXHIBIT A

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-08-03 11:54:13 ET

Serial Number: 75039772 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2147007

Mark (words only): ABC

Standard Character claim: No

Current Status: A partial Section 8 declaration has been accepted.

Date of Status: 2008-12-16

Filing Date: 1996-01-03

Transformed into a National Application: No

Registration Date: 1998-03-31

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: (NOT AVAILABLE)

Date In Location: 2008-12-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [HORIZON U.A.E. FZCO](#)

Address:

[HORIZON U.A.E. FZCO](#)
[LOB 16 NO. 314 JEBEL ALI, DUBAL](#)
[UNITED ARAB EMIRATES](#)
[United Arab Emir.](#)

Legal Entity Type: [Company](#)

State or Country Where Organized: [United Arab Emir.](#)

GOODS AND/OR SERVICES

International Class: [029](#)

Class Status: [Section 8 - Cancelled](#)

Basis: 1(a)

First Use Date: 1982-00-00

First Use in Commerce Date: 1982-00-00

International Class: 030

Class Status: Active

chili sauce, ketchup, seafood sauce, soy sauce

Basis: 1(a)

First Use Date: 1975-00-00

First Use in Commerce Date: 1978-00-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-08-01 - TEAS Voluntary Amendment Received

2010-12-09 - TEAS Change Of Correspondence Received

2008-12-16 - Partial Section 8 (10-Year) accepted/checked record for section

2008-03-31 - Combined Section 8 (10-year)/Section 9 filed

2008-08-13 - Automatic Update Of Assignment Of Ownership

2008-05-08 - Attorney Revoked And/Or Appointed

2008-05-08 - TEAS Revoke/Appoint Attorney Received

2008-04-17 - Post Registration action correction

2008-04-08 - Assigned To Paralegal

2008-03-31 - Combined Section 8 (10-year)/Section 9 filed

2008-03-31 - TEAS Section 8 & 9 Received

2007-06-19 - TEAS Change Of Correspondence Received

2007-05-14 - Case File In TICRS

2005-01-19 - Section 8 (6-year) accepted & Section 15 acknowledged

2004-09-29 - Section 8 (6-year) and Section 15 Filed

2004-09-29 - Section 8 (6-year) and Section 15 Filed

2004-09-29 - TEAS Section 8 & 15 Received

2004-09-29 - TEAS Change Of Correspondence Received

1998-03-31 - Registered - Principal Register

1998-01-06 - Published for opposition

1997-12-05 - Notice of publication

1997-11-08 - Approved for Pub - Principal Register (Initial exam)

1997-08-26 - Communication received from applicant

1997-03-03 - Final refusal mailed

1996-12-26 - Communication received from applicant

1996-07-01 - Non-final action mailed

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Sabrina J. Hudson

Correspondent

Sabrina J. Hudson

H. J. Heinz Company

P.O. Box 57

Pittsburgh PA 15230

Phone Number: 412-456-6004

Fax Number: 412-456-1035

Domestic Representative

Ann Nee Chu



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3

Serial # : [75039772](#)

Filing Dt: 01/03/1996

Reg # : [2147007](#)

Reg. Dt: 03/31/1998

Registrant: PT ABC Central Food Industry

Mark: ABC

Assignment: 1

Reel/ Frame: [2944/0361](#)

Received: 09/24/2004

Recorded: 09/24/2004

Pages: 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [PT ABC CENTRAL FOOD INDUSTRY](#)

Exec Dt: 02/04/1999

Entity Type: CORPORATION

Citizenship: INDONESIA

Entity Type: CORPORATION

Citizenship: VIRGIN ISLANDS, BRITISH

Assignee: [CHESTERFIELD FINANCE LIMITED](#)

P.O. BOX 957

OFFSHORE INCORPORATIONS CENTRE

ROAD TOWN, TORTOLA, VIRGIN ISLANDS, BRITISH

Correspondent: JENNISON & SHULTZ, P.C.

KATHRYN JENNISON SHULTS

CRYSTAL PLAZA # 1, SUITE 1102

2001 JEFFERSON DAVIS HIGHWAY

ARLINGTON, VA 22202

Assignment: 2

Reel/ Frame: [2944/0392](#)

Received: 09/24/2004

Recorded: 09/24/2004

Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [CHESTERFIELD FINANCE LIMITED](#)

Exec Dt: 02/08/1999

Entity Type: CORPORATION

Citizenship: VIRGIN ISLANDS, BRITISH

Entity Type: CORPORATION

Citizenship: MAURITIUS

Assignee: [HORIZON INVESTMENT INC.](#)

CERNE HOUSE

SIXTH FLOOR

CHAUSSEE, PORT LOUIS,, MAURITIUS

Correspondent: JENNISON & SHULTZ, P.C.

KATHRYN JENNISON SHULTZ

2001 JEFFERSON DAVIS HIGHWAY

ARLINGTON, VA 22202

Assignment: 3

Reel/ Frame: [3830/0718](#)

Received: 08/06/2008

Recorded: 07/31/2008

Pages: 19

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [HORIZON INVESTMENT INC.](#)

Exec Dt: 01/11/2008

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: MAURITIUS

Entity Type: COMPANY

Citizenship: UNITED ARAB EMIRATES

Assignee: [HORIZON U.A.E. FZCO](#)

LOB 16 NO. 314

JEBEL ALI, DUBAL

UNITED ARAB EMIRATES, UNITED ARAB EMIRATES

Correspondent: SALLY STODOLSKY

P.O. BOX 57

PITTSBURGH, PENNSYLVANIA 15230-0057

Search Results as of: 08/03/2011 12:04 PM

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Web interface last modified: Apr 30, 2009 v.2.1

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