

ESTTA Tracking number: **ESTTA525469**

Filing date: **03/07/2013**

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	Tetley USA Inc.		
Entity	Corporation	Citizenship	Delaware
Address	155 Chestnut Ridge Road Montvale, NJ 07645 UNITED STATES		

Attorney information	Alaine Doolan Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103 UNITED STATES adoolan@rc.com, jscheib@rc.com Phone:860-275-8378		
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**Applicant Information**

Application No	85592978	Publication date	03/05/2013
Opposition Filing Date	03/07/2013	Opposition Period Ends	04/04/2013
Applicant	SUN GENERATION LIMITED 2 Victoria Chambers, Luke Street London, EC2A4EE UNITED KINGDOM		

**Goods/Services Affected by Opposition**

Class 030. All goods and services in the class are opposed, namely: Tea-based beverages; tea for infusions; tea; iced tea; chilled tea; fruit tea; herbal tea made from herbal mixtures
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	404408	Application Date	06/17/1943
Registration Date	11/23/1943	Foreign Priority Date	NONE
Word Mark	TETLEY		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U046 (International Class 030). First use: First Use: 1889/07/10 First Use In Commerce: 1889/07/10 Tea

U.S. Registration No.	4049315	Application Date	04/18/2011
Registration Date	11/01/2011	Foreign Priority Date	NONE

Word Mark	TETLEY
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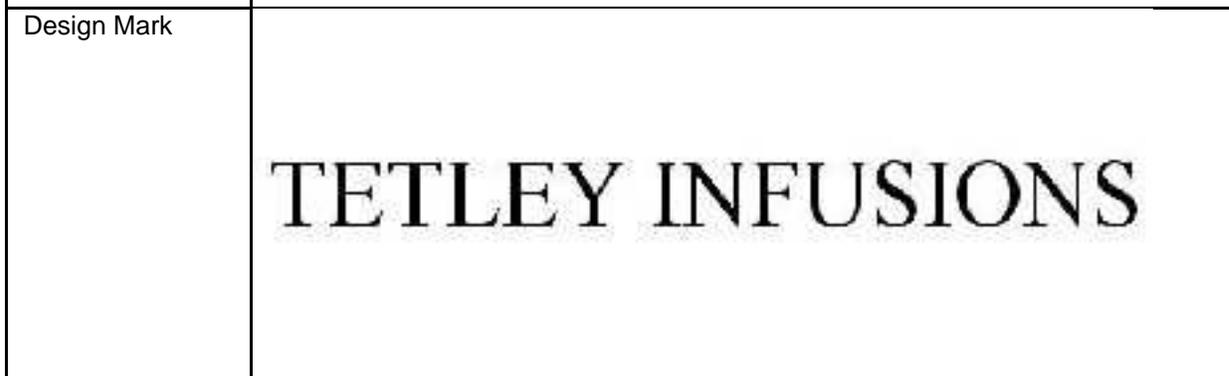


Description of Mark	The mark consists of the word TETLEY in stylized lettering inside an oval with a graduated curved line arcing above the word and with a leaf forming left side of the letter y.
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Goods/Services	Class 030. First use: First Use: 2010/08/00 First Use In Commerce: 2010/09/00 Tea; tea bags; tea-based beverages
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U.S. Registration No.	4060913	Application Date	05/20/2010
Registration Date	11/22/2011	Foreign Priority Date	NONE

Word Mark	TETLEY INFUSIONS
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Description of Mark	NONE
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Goods/Services	Class 030. First use: First Use: 2011/04/00 First Use In Commerce: 2011/04/00 Teas
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Attachments	85298006#TMSN.jpeg ( 1 page )( bytes )
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	85043455#TMSN.jpeg ( 1 page )( bytes ) Tetley978.PDF ( 14 pages )(384273 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 Overnight Courier on this date.

Signature	/Alaine Doolan/
Name	Alaine Doolan
Date	03/07/2013

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

Tetley USA Inc.,	:	
Opposer,	:	Opposition No. _____
	:	
v.	:	Serial No.: 85/592,978
	:	Mark: TET and Design
Sun Generation Limited,	:	Filing Date: April 9, 2012
Applicant.	:	Published: March 5, 2013
	:	

**NOTICE OF OPPOSITION**

Tetley USA Inc. (“Opposer”) is a corporation organized under the laws of the state of Delaware, with its principal offices located at 155 Chestnut Ridge Road, Montvale, New Jersey 07645.

Upon information and belief, Applicant, Sun Generation Limited (“Applicant”), is a Great Britain privately-held limited company, having an address of 2 Victoria Chambers, Luke Street, London, United Kingdom EC2A4EE.

Opposer believes it will be damaged by the registration of Application Serial No. 85/592,978 owned by Applicant for the mark TET – STRONG & FRAGRANT – TRUE ENGLISH TEA and Design filed for “tea-based beverages; tea for infusions; tea; iced tea; chilled tea; fruit tea; herbal tea made from herbal mixtures” (“Applicant’s Mark”).

As grounds for opposition, Opposer alleges as follows:

1. Opposer is a long-established, multi-national company engaged in, among other things, the development, manufacture, advertising, distribution and sale of a wide variety of teas, tea based beverages, and related products.

2. Since at least as early as 1889, Opposer has manufactured and sold tea and related products under the TETLEY brand.

3. Opposer is the owner of a number of trademark registrations for the mark “TETLEY” as used in connection primarily with tea, tea based beverages, and related products (the “TETLEY Marks”). The TETLEY Marks are valid and subsisting. The U.S. Patent and Trademark Office’s TSDR printouts of each of these registrations are attached as Exhibit A and are summarized as follows:

<b>Mark</b>	<b>Registration No.</b>	<b>Goods</b>	<b>Classes</b>
TETLEY	404,408	Tea.	30
TETLEY and Design	4,049,315	Tea; tea bags; tea-based beverages.	30
TETLEY INFUSIONS	4,060,913	Teas.	30

4. The existence of these valid and subsisting federal trademark registrations constitutes *prima facie* evidence of the ownership and validity of the TETLEY Marks.

5. Opposer has continuously and extensively used the TETLEY Marks in commerce in connection with the advertising, promotion and sale of tea, tea based beverages, and related products. Through Opposer’s substantial amount of time and effort in advertising, promoting, and selling its goods under the TETLEY Marks, the public and the food and beverage industry have come to recognize the products offered in conjunction with these marks as signifying Opposer and its products.

6. Opposer’s use commenced well before Applicant’s. Specifically, the Applicant has not yet claimed use of Applicant’s Mark and the April 9, 2012 filing date of Applicant’s intent to use application to register Applicant’s Mark is years after the dates when Opposer first used and/or registered the TETLEY Marks.

7. Opposer has enjoyed substantial sales and has spent vast sums in advertising and promoting its goods in connection with its TETLEY Marks throughout the United States and in numerous other countries around the world.

8. Opposer's TETLEY Marks have achieved such widespread public recognition as to become commercially strong and well-known.

### COUNT ONE

#### Likelihood of Confusion – 15 U.S.C. §1052(d)

9. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 8.

10. Applicant's Mark imitates and plays off the goodwill of Opposer's TETLEY Marks. Applicant's mark is comprised of the terms "TET," "STRONG & FRAGRANT," and "TRUE ENGLISH TEA" along with a design element. The term TET is presented in large, conspicuous typeface and centered below the design of a crest which has a tea cup and tea kettle in its center and in a small font, above the crest is the terms "Strong & Fragrant" and below the crest is the terms "True English Tea." The placement of the terms is such that the dominant portion is the mark is the term TET. In addition, Applicant has disclaimed in its application the phrases "Strong & Fragrant" and "True English Tea" in acknowledgement that the phrases are descriptive of the product sold. Accordingly, the term "TET" is the key to Applicant's Mark. These three letters are the first three letters of Opposer's TETLEY Marks. Consumers buying tea products will see the word TET and assume it is an abbreviation for the word "Tetley." While Applicant's Mark contains a design element because the design contains a tea cup and tea kettle it does not help to distinguish Applicant's Mark from Opposer's Marks but rather creates an association or connection between the two marks since Opposer manufactures and sells tea

and tea based beverages under its TETLEY Marks. Not only is Applicant's Mark so similar in appearance to the TETLEY Marks that consumers will be confused upon seeing the name but the goods of Applicant's application are also identical to and overlap with the goods of Opposer. In view of the similarity between the term TET and TETLEY and the identical nature of the goods of the representative parties, Applicant's Mark so resembles the TETLEY Marks, which were previously and are currently used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. §1052(d) and would violate or diminish the prior and superior rights of Opposer in its TETLEY Marks.

11. For the foregoing reasons, Opposer will be damaged by the registration of Applicant's Mark for the goods listed in Application Serial No. 85/592,978.

## **COUNT TWO**

### **Dilution**

12. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 11.

13. In view of the strength of Opposer's TETLEY Marks, the duration and extent of Opposer's use and advertising of its TETLEY Marks, the nationwide (and international) use of the TETLEY Marks, and the degree of recognition of the TETLEY Marks, Opposer's TETLEY Marks have become famous. Opposer's TETLEY Marks were famous prior to the filing date of Applicant's application for Applicant's Mark.

14. Applicant's Mark and application are likely to cause, and will cause, dilution of the distinctive value of Opposer's TETLEY Marks under Section 43(c) of the Lanham Act of 1946, as amended 15 U.S.C. §1125(c).

15. For the foregoing reasons, Opposer will be damaged if Application Serial No. 85/592,978 is granted registration because Applicant will obtain statutory rights in violation and derogation of the established prior rights of Opposer.

### **COUNT THREE**

#### **False Designation of Origin**

16. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 15.

17. Applicant's unauthorized proposed distribution of tea and tea related products bearing Applicant's Mark will constitute a false designation of origin and a false description or representation that Applicant's sale of such products is authorized by Opposer, and is thereby likely to confuse consumers.

18. Upon information and belief, Applicant intends to use the designation TET with full knowledge that such designation is likely to cause consumers confusion, mistake or deception as to the origin, sponsorship or association of Applicant's goods in relation to Opposer's TETLEY Marks. Applicant's proposed acts of unfair competition will be willful and deliberate and with intent to reap the benefit of the goodwill and reputation associated with Opposer's TETLEY Marks.

19. Applicant's proposed sale and distribution of tea and tea related products bearing Applicant's Mark will violate Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. §1125(a)(1)(A).

20. For the forgoing reasons, Opposer will be damaged if Application Serial No. 85/592,978 should issue to registration because Applicant will obtain statutory rights in the designation TETLEY in violation and derogation of the established prior rights of Opposer.

WHEREFORE, Opposer respectfully requests that registration of the Applicant's Mark in Serial No. 85/592,978 be refused in its entirety and that this opposition be sustained.

Respectfully submitted,



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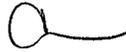
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Fx: (860) 275-8299  
[jscheib@rc.com](mailto:jscheib@rc.com)

Attorneys for Opposer  
Tetley USA Inc.

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing NOTICE OF OPPOSITION was served by Federal Express, postage prepaid, on March 7, 2013 upon counsel for Applicant:

Alexander S. Lazouski  
Lazouski & Associates LLC  
157 3rd Ave Ste 2C  
Westwood, New Jersey 07675-2139



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Alaine Doolan, Esq.  
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Attorneys for Opposer  
Tetley USA Inc.

**EXHIBIT A**

STATUS DOCUMENTS

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Print

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Mark: TETLEY

US Serial Number: 71461471

Application Filing Date: Jun. 17, 1943

US Registration Number: 404408

Registration Date: Nov. 23, 1943

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Jan. 30, 2004

**Mark Information**

Mark Literal Elements: TETLEY

[expand all](#)

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

**Related Properties Information**Claimed Ownership of US [0266272](#), [0266273](#), [0266274](#), [0267011](#), [0268510](#), [0268511](#), [0285835](#), [0302228](#), [0303631](#), [0303954](#), [0308242](#), [0366765](#), and others Registrations:

Publish Previously Yes

Registered Mark:

Previously Registered Mark Jul. 27, 1948

Publication Date:

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Tea

International Class: 030

U.S Class: 046 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 10, 1889

Use in Commerce: Jul. 10, 1889

**Basis Information (Case Level)****Current Owner(s) Information**

Owner Name: TETLEY USA INC.

Owner Address: 100 COMMERCE DRIVE  
SHELTON, CONNECTICUT 06484  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

**Attorney/Correspondence Information**

Attorney of Record

Attorney Name: Jacqueline P. Scheib

Correspondent

**Correspondent** Jacqueline P. Scheib  
**Name/Address:** Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CONNECTICUT 06103  
UNITED STATES

**Phone:** 860-275-8285

**Correspondent e-mail:** [jscheib@rc.com](mailto:jscheib@rc.com)

**Fax:** 860-275-8299

**Correspondent e-mail Yes**  
**Authorized:**

**Domestic Representative - Not Found**

**Prosecution History**

**Maintenance Filings or Post Registration Information**

**TM Staff and Location Information**

**Assignment Abstract of Title Information**

**Conveyance Filter**

STATUS DOCUMENTS

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Mark: TETLEY



US Serial Number: 85298006

Application Filing Date: Apr. 18, 2011

US Registration Number: 4049315

Registration Date: Nov. 01, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Nov. 01, 2011

Publication Date: Aug. 16, 2011

**Mark Information**[expand all](#)

Mark Literal Elements: TETLEY

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the word TETLEY in stylized lettering inside an oval with a graduated curved line arcing above the word and with a leaf forming left side of the letter y.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Design Search Code(s): 05.03.25 - Leaf, single;Other leaves

26.03.21 - Ovals that are completely or partially shaded

26.17.09 - Bands, curved;Bars, curved;Curved line(s), band(s) or bar(s);Lines, curved

27.03.04 - Plants forming letters or numerals

**Related Properties Information**Claimed Ownership of US [0404408,2984079](#)

Registrations:

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [.] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

For: Tea; tea bags; tea-based beverages

International Class: 030 - Primary Class

U.S Class: 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 2010

Use in Commerce: Sep. 2010

**Basis Information (Case Level)****Current Owner(s) Information**

Owner Name: Tetley USA Inc.

Owner Address: 155 Chestnut Ridge Road  
Montvale, NEW JERSEY 07645  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where DELAWARE  
Organized:

**Attorney/Correspondence Information**

**Attorney of Record**

**Attorney Name:** Jacqueline P. Scheib

**Correspondent**

**Correspondent** Jacqueline P. Scheib

**Name/Address:** Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CONNECTICUT 06103  
UNITED STATES

**Phone:** 860-275-8285

**Fax:** 860-275-8299

**Correspondent e-mail:** [jscheib@rc.com](mailto:jscheib@rc.com)

**Correspondent e-mail** Yes

**Authorized:**

**Domestic Representative - Not Found**

**Prosecution History**

**TM Staff and Location Information**

STATUS DOCUMENTS

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Mark: TETLEY INFUSIONS

TETLEY INFUSIONS

US Serial Number: 85043455

Application Filing Date: May 20, 2010

US Registration Number: 4060913

Registration Date: Nov. 22, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Nov. 22, 2011

Publication Date: Sep. 14, 2010

Notice of Allowance Date: Nov. 09, 2010

**Mark Information**

expand all

Mark Literal Elements: TETLEY INFUSIONS

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "INFUSIONS"

**Goods and Services**

**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Teas

International Class: 030 - Primary Class

U.S Class: 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 2011

Use in Commerce: Apr. 2011

**Basis Information (Case Level)**

**Current Owner(s) Information**

Owner Name: Tetley USA Inc.

Owner Address: 155 Chestnut Ridge Road  
Montvale, NEW JERSEY 07645  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

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Correspondent e-mail: [jscheib@rc.com](mailto:jscheib@rc.com)

Correspondent e-mail Yes  
Authorized:

Domestic Representative - Not Found

**Prosecution History**

**TM Staff and Location Information**